

Bihar Anatomy Act, 1961

7 of 1961

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PREAMBLE

An Act to provide for the supply of unclaimed bodies of deceased persons to Hospital and Medical and Teaching Institutions for the purpose of post-mortem examination, anatomical dissection and practice of operative surgery.

Be it enacted by the Legislature of the State of Bihar in the Twelfth Year of the Republic of India as follows :-

1. Legislative paper for statement of Objects and Reason, see Bihar Gazatte.

1. Short title, extent and commencement :-

(1) This Act may be called the Bihar Anatomy Act, 1961.

(2) It extends to the whole of the State of Bihar.

(3) It shall come into force on such date and in such areas as the State Government may, by notification, appoint, and different dates may be appointed for different areas.

2. Definitions :-

In this Act, unless there is anything repugnant in the subject or context-

(a) "approved institution" means a hospital or a medical or teaching institution approved by the State Government as an institution for conducting post-mortem examination, anatomical dissection and practice of operative surgery;

(b) "authorised officer" means an officer appointed by the State Government under Section 3;

(c) "near relative" in relation to a deceased person, means any of the following relatives of the deceased, that is, wife, husband, parent, son, daughter, brother and sister and includes any other person who is related to the deceased-

(i) by lineal or collateral consanguinity within three degrees in collateral relationship, or

(ii) by marriage either with the deceased or with any relative specifically mentioned in this clause or with any other relative within the aforesaid degrees;

Explanation.-The expressions "lineal consanguinity" and "collateral consanguinity" shall have the same meanings as respectively assigned to them in Sections 25 and 26 of the Indian Succession Act, 1925 (XXXIX of 1925).

(d) "prescribed" means prescribed by rules made under this Act;

and

(e) "unclaimedbody" means the body of a deceased person which is not claimed by any of his near relatives or any person of his caste, creed or religion within such time as may be prescribed and includes the dead-body of a person who had dedicated it in the prescribed manner.

3. Power of State Government to appoint authorised officers :-

The State Government may, by notification, appoint for the area in which this Act comes into force or any part thereof one or more officers to be called authorised officers to exercise the powers and perform the duties conferred and imposed on the authorised officer under this Act.

4. Doubt or dispute as to unclaimed body to be referred to officer appointed by State Government :-

(1) If any doubt or dispute arises whether the body of any deceased person is an unclaimed body, the matter shall be referred to such officer as the State Government may, by notification, appoint for any area in this behalf and the decision of such officer shall be final and conclusive.

(2) Pending such decision, the body of the deceased person shall be preserved from decay in such manner as may be prescribed.

5. Unclaimed bodies in hospitals, prisons and public places how to be dealt with :-

(1)Where a person under treatment in a hospital whether established by or vesting in or maintained by the State Government or any local authority, dies in such hospital and his body is unclaimed, the authorities in charge of such hospital shall with the least practicable delay report the fact to the authorised officer and thereupon it shall be lawful for such officer to take

possession of the unclaimed body and hand it over to the authority in charge of an approved institution for the purpose of conducting post-mortem examination or anatomical dissection for practising operative surgery.

(2) Where a person dies at a hospital other than a hospital referred to in sub section (1) or in a prison and his body is unclaimed the authorities in charge of such hospital or prison shall with the least practicable delay report the fact to the authorised officer and thereupon it shall be lawful for such officer to take possession of the unclaimed body and hand it over to the authority in charge of an approved institution, for the purpose specified in sub-section (1).

(3) Where a person, having no permanent place of residence in the area where his death has taken place, dies in any public place in such area and his body is unclaimed, it shall be lawful for the authorised officer to take possession of the unclaimed body and hand it over to the authority in charge of an approved institution for the purpose specified in sub-section (1).

(4) When there is any doubt regarding the cause of death or when for any reason the authorised officer considers it expedient so to do he shall forward the unclaimed body to the police officer referred to in Section 174 of the Code of Criminal Procedure, 1898 (V of 1898)¹.

(5) Where any unclaimed body taken possession of by the authorised officer under this section is not required by the authority in charge of an approved institution for the purpose specified in sub-section (1), it shall be disposed of in such manner as may be prescribed.

(6) When post-mortem examination or anatomical dissection of, or practice of operative surgery on, an unclaimed body is over, remains thereof, if any, shall be disposed of in the prescribed manner.

1. Now, Criminal Procedure Code, 1973.

6. Penalty :-

Whoever disposes of, or abets the disposal of, an unclaimed body save as permitted by this Act, or obstructs any authority in charge of an approved institution or an authorised officer from handing over, taking possession of, removing or using, such body for the purpose specified in the Act, shall, on conviction, be punishable with fine which may extend to five hundred rupees.

7. Duty of police and other officers to assist in obtaining possession of unclaimed bodies :-

It shall be the duty of all police officers, all officers of the Health Department of the State Government and officers in the employ of a local authority to render all reasonable assistance to any authority or officer authorised under this Act to obtain possession of an unclaimed body.

8. Indemnity :-

No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

9. Officers to be public servants :-

Any authority or officer appointed or empowered to discharge any function under this Act shall be deemed to be a public servant within the meaning of the Indian Penal Code, 1860 (XLV of 1860).

10. Power to make rules :-

(1)The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for-

(a) the time within which the body of a deceased person may be

claimed;

(b) the manner of preserving dead-bodies; and

(c) any other matter that may be, or is required to be, prescribed.

(3) Every rule made under this section shall be laid as soon as may be after it is made, before each House of the State Legislature while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, both houses agree in making any modification in the Rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule

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