

Date of Judgment: 29.04.2009

+ W.P. (C) 4832/2007

SARDAR PARAMJEET SINGH Petitioner
Through: Mr. S.R. Sharma, Advocate.

versus

GOVT. OF NCT OF DELHI & ORS Respondents
Through: Mr. Manpreet Kaur, for
Mr. V.K. Tandon, Advocate for Resp-1.
Ms. Madhu Tewatia with Ms. Sidhi Arora,
Advocate for State of Punjab.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT

1. Whether the Reporters of local papers may be allowed to see the judgment?
2. To be referred to Reporter or not?
3. Whether the judgment should be reported in the Digest?

S.RAVINDRA BHAT, J. (OPEN COURT)

1. Issue rule. With the consent of learned counsel for the parties, the matter was taken up for final hearing.
2. The writ petitioner claims direction to the respondents to release Rs.2,00,000/- as compensation pursuant to an order dated 16.01.2006 issued by the Government of India.
3. The petitioner claims to be a victim of anti sikh riot and at the relevant

time residing at Kanpur, Uttar Pradesh. He contends having shifted to Mohali, Punjab thereafter. According to him, the red card No.1665 was issued by the Deputy Commissioner, Ropar in accordance with the Scheme. He refers to a copy of an application made before the authorities at Punjab. He further submitted that since he could succeed in his business, left Punjab and went to Delhi in February, 2000, where he approached the GNCTD authorities to grant relief and was informed about his ineligibility since he could claim it only from the place which had issued him the Red Card i.e. State of Punjab. The petitioner has produced copies of the representations made to the State of Punjab claiming the relief.

4. Being aggrieved he seeks a direction that the respondents should be required to disburse the amount to him.

5. The petitioner relies upon the orders of the Central Government dated 16.1.2006, which, *inter alia*, directed that compensation of specified amount should be released for different categories of victims. The relevant part of the Notification reads as follows: -

"No.U13108/46/2005-Delhi-I(NC)
BHARAT SARKAR GOVERNMENT OF INDIA
GRIH MANTRALAYA/MINISTRY OF HOME AFFAIRS
North Block, New Delhi
Dated 16th January, 2006

To,
Chief Secretary,
(Governments of Uttar Pradesh, Madhya Pradesh, Chattisgarh,
Haryana, Bihar, Jharkhand, J&K, Himachal Pradesh, Orissa,
Maharashtra, Uttranchal, Punjab and NCT of Delhi).

Subject : Sanction of “rehabilitation Package” to provide relief to the victims of 1984 riots.

Sir/Madam,

I am directed to say that in pursuance of the assurance given by the prime Minister and the Home Minister during discussion on the Report of Justice Nanavati Commission of Inquiry into 1984 riots in the Lok Sabha and the Rajya Sabha, the matter has been considered by the Government and it has been decided to sanction ex-gratia amount and other assistance to the victims of 1984 riots as mentioned below :

“(xii) Approximately 22,000 families of victims of the riots, which migrated to Punjab from other riot affected States and are still living there, would be paid Rehabilitation Grant @ Rs.2 lakh per family. Similarly placed families of victims of the riots living in other States may also be given Rehabilitation Grant at the rate of Rs.2 lakh per family.

2. It has further been decided that the entire expenditure on payment of ex-gratia in case of death and injury and ex-gratia for damaged residential properties and damaged uninsured commercial/industrial properties and rehabilitation grant as indicated at para 1(xii) would be borne by the Central Government. The expenditure on payment of pension to the widows and old aged parents of those who were killed in 1984 riots, wives of those who have suffered disability of 70% or more and those who are missing since 1984 should be borne by the respective State Government.

3. The Governments of Uttar Pradesh, Madhya Pradesh, Chattisgarh, Haryana, Bihar, Jharkhand, J&K, Himachal Pradesh, Orissa, Maharashtra, Uttaranchal, Punjab and NCT of Delhi are requested to take immediate necessary steps to grant ex-gratia and other assistance to the victims of 1984 riots as per the following guidelines.

(i) The State Governments will, immediately on receipt of this letter, issue a notice for inviting claims from the riot victims for payment of ex-gratia in case of death/injury and compensation for damage to residential/commercial/industrial properties;

(ii) Each State Government will publicize the particulars of officers authorized to receive claims from riot victims. They will also nominate a senior officer as “Liaison Officer” for this purpose. His/her particulars will be communicated to the ministry

of Home Affairs;

(iii) All the claims will be duly verified/scrutinized by local administration/ agency of State Governments;

(iv) Each State Government will constitute a committee, which will consider the verified/scrutinized claims and give recommendation whether the claim should be accepted for payment or rejected.

(v) Based on the recommendation of the Committee, the State Governments will initially make disbursement of the amount from their own budget;

(vi) After making disbursement, the State Governments will calculate the total expenditure incurred on payment of ex-gratia/compensation and seek reimbursement from the Ministry of Home Affairs;

(vii) All payments to the riot victims will be made through "account payee cheques: only. In case a beneficiary does not have a bank account, the State Government will arrange a bank account to be opened in his/her name before the payment is made.

(viii) The State Governments would review the procedures prescribed for verification/scrutiny of claims to make it simple and less cumbersome to avoid delay and harassment to the riot victims;

(ix) In cases where the claims are supported by proof of having received the amount of compensation paid by the State Governments earlier, that may be considered as adequate and no additional proof may be required. It would be ensured that the claims are not rejected on technical/flimsy grounds."

6. The Government of NCT as well as the Government of India submit that primary responsibility of paying the compensation in this case rests with the Government of Punjab. They rely upon the para 3 of the above order in

support of this submission. It is contended that the petitioner no doubt was a resident of Delhi and subsequently he went to Punjab in 1986, after which he returned back to Delhi. Nevertheless he was in possession of the red card issued by the Government of Punjab. According to the counsel, this means that the concerned authority would be the Punjab Government who is under obligation to release the amount.

7. The above discussion shows that the petitioner's claim for compensation is being refuted by the respondents on the ground that he is now residing in Delhi. The argument put forth by them is that para 2 (12) applies if the original residence migrant continues to be in the other State. However, the contention is that since the petitioner returned back to Delhi, and that he still holds a red card issued by the Punjab Government, he should approach that Government and seek his remedies.

8. The petitioner's request has been responded to by the Government of Punjab in the following terms: -

*"From
Sub Divisional Magistrate
SAS Nagar.*

*To
Sh. Paramjeet Singh
96, Bannu Enclave,
Near Pitam Pura Club
Pitam Pura, New Delhi – 110 034.*

No. 516 dated 25.8.2006

Subject: Regarding grant of relief to riots affected of 1984.

Ref: Your letter dated: 20.4.2006 & 25.8.2006

On the subject cited above, you are hereby informed that the payment of rehabilitation grant of Rs. 2 Lacs each to the victims of 1984 riots is only for those who had migrated to Punjab from other riot affected states and are still living in Punjab. Since you have admitted that you had shifted to Delhi in the year February-2000, therefore you are not eligible for this rehabilitation package. Hence your application is rejected. You are advised to take up the case with the; concerned authorities in Delhi as per letter no. U-130184/2005, Delhi-I (NC) dated 16.1.2006 from the Govt. of India, Ministry of Home Affairs.

*Sd/-
Sub Divisional Magistrate
SAS Nagar”*

The petitioner has also relied upon a letter dated 18.10.2006 enclosing the list of applications received from several persons regarding allotment of flats/plots etc. during 1984 riots. The said list is as follows: -

*“OFFICE OF THE DIVISIONAL COMMISSIONER: DELHI
(RELIEF BRANCH)*

5, SHAM NATH MARG: DELHI – 110 054.

List of applications received from the applicants regarding allotment of flats/shops/looting of shops and houses/compensation of death etc. during 1984 riots.

Distt. North West

<i>S. No.</i>	<i>Diary No. & Date</i>	<i>Name & address</i>	<i>Through & D.No.</i>
<i>1</i>	<i>1963/Relief 28/9/06</i>	<i>Shri Surinder Singh Kanwal, 248-Kohat Enclave, Pitam Pura, New Delhi</i>	<i>By Post</i>
<i>2</i>	<i>2000/Relief 6/10/06</i>	<i>Sh. Jai Singh B-724- Aman Vihar, Delhi</i>	<i>DS (Grievance) C/o. CNCF Ministry vide No.83170 dt.</i>

			29.9.06 & 833390 dt. 4- 101.06
3	2014/Relief 9.10.06	S. Jaswant Singh R/o H.No.1/23 & 24, New Seelampur, Delhi.	By Post
4	2015/Relief 9.10.06	S. Gurucharan Singh, Prop. M/s Simran Electronics: 4, DDA Market Shakti Nagar Extn.	By Post
5	2016/Relief 9.10.06	Sh. Paramjeet Singh 96, Bannu Enclave Pitampura, New Delhi	US Govt. of India U/s Home Affairs Vide No.13018187/2 006 dt. 5/10/06 Delhi NC
6	2025/Relief 12.10.96	Smt. Veena Kaur Bakshi, R/o GU-40-A, Pritam Pura, Vishakha Enclave, N. Delhi	--do--

9. The Central Government's order dated 16th January, 2006 makes it clear that compensation amount is disbursed by the concerned State Government whereas the reimbursement is ultimately done by Ministry of Home Affairs. In these circumstances, the Court is of the opinion that the denial by both the Punjab Government and Government of NCT of Delhi, to process the petitioner's case has immensely prejudiced him. Upon his approaching the Government of Punjab, the claim was rejected on the ground that he does not live in that State any longer. The Delhi Government also disclaiming responsibility stating that he should have stayed in Punjab. He has thus become a victim of circumstances, and trapped between the maze of re-tapism woven by the Punjab Government and the Govt. of NCT of

Delhi, neither of which are willing to process his case on the ground of residence.

10. Having regard to the facts of this case, the Government of NCT of Delhi is hereby directed to verify the petitioner's claim within a period of eight weeks from today and thereafter if it finds that his case is genuine (and the Government of Punjab has granted him the red card as he claims), disburse the amount of Rs.200,000/- to him. The amount shall be disbursed to the petitioner within four weeks on receiving the information from the Government of Punjab. It is open to the Government of Delhi to claim reimbursement in regard to compensation amount which may ultimately be paid to the petitioner from the Government of India in accordance with the Clause IV (6) of the circular dated 16th January, 2006.

The Writ Petition is allowed in the above terms.

Order Dasti.

**S. RAVINDRA BHAT
(JUDGE)**

APRIL 29, 2009