

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment reserved on :29.07.2013

Judgment pronounced on :01.08.2013

+ W.P.(C) 3369/2013
HUKAM SINGH

..... Petitioner

Through: Mr. Vinod Kumar Sharma and Mr.
Himanshu Yadav, Advs.

versus

THE CHIEF SECRETARY GOVT. OF NCT OF DELHI AND
ORS

..... Respondent

Through: Ms. Ferida Satarwala, Adv. for R-1
Mr. Rajiv Ranjan Mishra, Adv. for
R-3

CORAM:

HON'BLE MR. JUSTICE V.K. JAIN

V.K. JAIN, J.

The petitioner before this Court claims to be a victim of 1984 riots in Delhi. According to him, he lost his two children in the said riots and also sustained loss to the extent of 90,000/-, to his properties. According to the petitioner, after the said riots, he returned to Delhi in 1990 and in the year 1997, he came to know about disbursal of compensation by the government to the victims of 1984 riots. The petitioner submitted an application dated 1.3.2006 seeking compensation for damage to his cabinet factory at 23, Radhey Puri Extension no.2, Delhi in the riots which took place on 1.11.1984. He claimed that no death *ex gratia*, job, pension, plot, stall, stipend etc had been provided to him or his relations.

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Signing Date: 11.09.2022 17:07:03
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2. The claim of the petitioner was rejected vide order dated 2.4.2012 passed by the SDM, Gandhi Nagar on the following grounds:

1. The applicant has failed to submit the following documents to prove the genuineness of his claim:
 - a) FIR/ Police complaint filed before the police authorities immediately after 84 riots, relating to damage of commercial unit (Manufacturing unit of column of speakers).
 - b) Photograph of damaged commercial property.
 - c) Proof of ownership details of damaged commercial unit i.e. sale deed, License obtained from MCD, rent agreement etc.
 - d) Copy of Bank statement, Income Tax return, Sales Tax return, Balance sheet, stock register etc relating to his commercial unit for the period prior to 84 riots to assess the loss on the basis of statutory documents.
 - e) Proof of receipt of original *ex-gratia* received immediately after riots, from the Delhi Govt. for loss of commercial property during riots.
 - f) Proof of having submitted the claim for *ex-gratia* during the period 1984 to 1990 during which Govt. formulated a policy for payment of *ex-gratia* to 84 riot victims for loss of commercial property.
2. Regarding copy of FIR submitted & referred to by the claimant, it has been observed that the FIR was not filed by the applicant and nothing has been mentioned in the General FIR relating to damage of commercial unit at 23 Radhey Puri, Extn., Delhi.

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3. As regards police enquiry report, submitted by the SHO Preet Vihar, it has been observed that nothing has been mentioned in the report relating to loss of commercial unit at 23, Radhey Puri Extn. The report mentions only the death incident of 2 children of the applicant for which death *ex-gratia* of Rs.14 lacs has already been paid to the claimant.
 4. The claim of the applicant for grant of *ex-gratia* relating to loss of commercial property during 1984 riots is also not covered within the provisions of Rehabilitation package dated 16.1.2006 read with GOI clarification dated 25.3.2008. As contained in the classification enhanced *gratia* is payable to those 84 riot victims who have received original *ex-gratia*.

3. It appears that earlier W.P(C) No.1851/2011 was filed by the petitioner seeking compensation and the said writ petition was disposed of after recording that a decision had been taken by the respondent to grant *ex gratia* payment of Rs.14 lac as compensation to the petitioner on account of death of his son in 1984 riots. The petitioner, presumably aggrieved on account of denial of compensation for damage to his property, filed W.P. (C) No.2223/2012 seeking compensation quantified at Rs.1,75,000/- for damage to his personal effects, tools etc. The said writ petition was disposed of vide order dated 20.11.2012, which, *inter alia*, reads as under:

“On Mr Sharma, learned counsel for the petitioner, being queried, he submits that a claim had been made by the petitioner with regard to the aforementioned commercial loss as well, which was not considered by the Court while disposing of the writ petition no. 1851/2011. Therefore, in my view, the second writ petition cannot be maintained once a claim has been raised and not considered by the Court. It would be barred by principle analogous to constructive res judicata.

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That apart, in the response of the respondent, there is a reference to order dated 02.04.2012 wherein the claim now made by the petitioner towards damage to commercial property whereby he seems to have lost his personal effects and tools and tackles, was considered by the District Screening Committee/the competent authority. For the reasons contained in the said order the petitioner's claim has been rejected.

I notice that there is no prayer in the petition challenging the said order. The writ petition contains two prayers. Prayer (A) refers to the loss qua commercial property, which I would presume, is a loss incurred vis-à-vis personal effects and tools and tackles, while prayer (B) pertains to interest of compensation on Rs.14 lacs, admittedly received by the petitioner.

In so far as prayer (A) is concerned, as indicated above, even the said prayer is not maintainable as Mr Sharma, as indicated above, informed me that the said claim was contained in the earlier writ petition.

However, having regard to the fact that an order has been passed by the respondents on 02.04.2012, post the disposal of the earlier writ petition, and given the fact that this is a case of person who is victim of 1984 riots, the petitioner would be free to assail the order in accordance with the remedy that may be available to him in law. The present petition, as framed, is not maintainable. Accordingly, the petition stands disposed of."

Accordingly, the petitioner is now assailing the order dated 2.4.2012 passed by the learned SDM.

4. During the course of arguments, I asked the learned counsel for the petitioner as to whether he had lodged an FIR alleging damage to his properties including ID machine, tools such as cutter, drilling machine, screw driver, hammer etc. The answer, however, was in the negative. I then asked the learned counsel for the petitioner as to whether the petitioner had sent any complaint to any superior officers or any other

authority alleging damage to his commercial unit. Again, the answer was in the negative. When I asked the learned counsel for the petitioner as to whether he has any proof of ownership or tenancy of the property bearing number 23, Radhey Puri Extension no.2, Delhi where he claims to be running a commercial unit in November, 1984. Yet again, the answer was in the negative. I then asked from the learned counsel for the petitioner as to whether the petitioner has any licence issued by the MCD or under the Shops and Establishments Act. The answer to this question also was in the negative. When I asked the learned counsel for the petitioner as to whether he has any bank passbook/ bank statement showing the address of 23, Radhey Puri Extension no.2, Delhi, he stated that the petitioner had no bank account. When I asked the petitioner's counsel as to whether he has any copy of income tax or sales tax return, the answer was in the negative.

The petitioner has neither produced nor is he in a position to produce any documentary proof of being in occupation of the property bearing number 23, Radhey Puri Extension no.2, Delhi and running a commercial unit there in November, 1984, when the riots broke out in Delhi. I fail to appreciate what difficult the petitioner can have in producing the documents of title if he owned the aforesaid property or rent receipt if he had taken the said property on rent. In case he has lost the title deeds, he could produce the record from MCD to show that the aforesaid property was assessed to property tax in his name. The petitioner has not filed any telephone bill/ electricity bill/ water bill to show that he was in possession of the aforesaid property and was running a commercial unit there. The petitioner could easily have obtained the

duplicate copies of such bills from the office of the concerned authority. The petitioner must be purchasing the material required for such manufacturing unit of columns of speakers since no manufacturing activities can be undertaken without raw-material. But, no invoice of purchase of any raw-material has been filed. In case the invoices also were destroyed, nothing prevented the petitioner from obtaining the duplicate invoices from the firm or the company from which the raw-material used to be purchased by him. It has also come in the order of learned SDM that he had obtained police inquiry report which found no mention of any damage to the commercial unit of the petitioner though it reported death of his children, for which *ex gratia* has already been paid to him. In these circumstances, the SDM, in my view, was eminently justified in rejecting the claim of the petitioner with respect to alleged damage to his commercial unit.

5. The learned counsel for the petitioner stated that it was for the SDM to verify the claim of the petitioner even if no document was submitted by him. I, however, find no merit in the contention. The question of verification would come only when some documents requiring verification are furnished. As regards, the local verification, SDM obtained the inquiry report of SHO and found that there was no reference of any damage to any commercial unit of the petitioner in the said report.

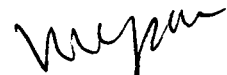
6. During the course of hearing, the learned counsel for the petitioner relied upon a decision of this Court in W.P(C) No.8164/2007 ***Harijit Singh versus Union of India*** decided on 9.5.2013. A perusal of the aforesaid decision would show that in that case the only ground for

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rejection of the claim of the petitioner was that no relief had been provided to him in the past by the Office of Commissioner of Delhi. The Government of NCT of Delhi took the stand that since initial compensation to the petitioner was paid by the State of Punjab, they were not liable to pay compensation to him in respect of damage to his commercial establishment. The State of Punjab took the stand that since the petitioner was not residing in Punjab he should approach the State Government within whose jurisdiction he was residing. It was in these circumstances that this Court noticing that the petitioner had been issued a red card and was paid subsidy amount of Rs.5,000/- by Punjab Government and had approached the State Government for compensation and payment of rehabilitation grant and also noticing that the only ground given by Delhi Government and Government of India for rejecting the claim of the petitioner for enhancement was that the initial subsidy to the petitioner was not paid by Delhi Government, held that the compensation to the petitioner ought to be paid by the respondents no.2 and 3. The Court, rejected the contention of Government of NCT of Delhi that since initially compensation was not paid by them but was paid by the State of Punjab, further compensation will not be paid by them. The writ petition was disposed of with the direction that the petitioner will be paid a rehabilitation grant of Rs.2 lac under the 2000 Scheme, SDM, Patel Nagar was directed to ascertain the loss to his commercial establishment and the loss quantified towards damage for commercial establishment was then be paid to him. The facts of the case before this Court, however, are altogether different. Here, the claim has not been rejected on the grounds on which it was rejected in W.P(C) No.8164/2007. Here, the

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claim has been rejected because it could not be substantiated by the petitioner before the SDM.

Since, I find no reasonable ground to interfere with the view taken by the learned SDM, the writ petition is hereby dismissed. There shall be no orders as to costs.



V.K.JAIN, J

AUGUST 01, 2013/*rd*