

Court No. - 40

Case :- WRIT - C No. - 37625 of 2023

Petitioner :- Khushbu Devi

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- R.K. Singh Rajput, Praveen Kumar Singh

Counsel for Respondent :- CSC

Hon'ble Mahesh Chandra Tripathi, J.

Hon'ble Prashant Kumar, J.

1. Heard Shri R.K. Singh Rajput, learned counsel for the petitioner and Shri Devesh Vikram, learned Additional Chief Standing Counsel for the State-respondents.

2. Present writ petition is preferred questioning the validity of the impugned report dated 20.01.2022 submitted by the Chief Revenue Officer, Koraon, Prayagraj, wherein the claim set up by the petitioner for according ex-gratia payment under the "Mukhya Mantri Krishak Durghatana Kalyan Yojna" has been declined on the ground that as per the viscera report, it was not found that the deceased died due to snake bite.

3. Learned counsel for the petitioner submits that the petitioner is resident of Village Devghat, Tehsil Koraon, District Prayagraj. Unfortunately, the husband of the petitioner died due to snake bite on 12.07.2022. The petitioner has moved an application before the District Magistrate, Prayagraj on 20.12.2022 for payment of compensation under "Mukhyamantri Krishak Durghatana Kalyan Yojna" and the same has been rejected by the impugned report dated 20.01.2022. Learned counsel for the petitioner in support of his submission states that while rejecting the claim of the petitioner only the viscera report has been considered and the authority has not applied its independent mind and considered the punchnama report dated 13.07.2022 and post mortem report, which was prepared and conducted by Dr. Dheeraj Pandey, N.P.H.C., Dewara, Prayagraj, wherein he has opined that the death was caused due to "Pin bite mark present left side back of chest, except no injury seen all over the body".

4. Learned counsel for the petitioner in this backdrop submits that the claim of the petitioner is to be seen in the light of the Government order dated 08.7.2021, which has been considered in detail by the Division Bench of this Court in its order dated 29.4.2022 passed in Writ C No.9000 of 2022 (**Om Prakash vs. State of UP and 2 others**) wherein the Court has opined that the

viscera report was not required and accordingly, a direction was issued for according compensation/ex-gratia payment to the dependent. The relevant part of the judgement is reproduced herein below:-

"18. According to learned Standing Counsel the testing of the viscera report itself shows that the venom which was found in the blood of the deceased was chemical poison only.

19. Learned Standing Counsel when confronted with the policy decision/clarification dated 08.07.2021 as referred to above could not dispute the same and had made a submission at bar that now in view of the policy decision dated 08.07.2021 the requirement of obtaining viscera report for the grant of monitory compensation/ex-gratia payment referable to death on account of snake bite stands dispensed with and what is to be seen is the fact that the panchnama as well as post mortem has been conducted or not.

20. Sri Sharad Srivastava, learned Standing Counsel has thus argued that in view of the letter of the Kanoongo addressed to the petitioner now the petitioner's claim will be processed and the same will not be denied or the benefits would not be denuded on the ground that the viscera report is either not available or not in favour of the petitioner.

21. Be that as it may be, in view of the arguments so sought to be advanced by the rival parties and further the fact that the learned Standing Counsel has not disputed the existence and the applications of the policy decision/clarification dated 08.07.2021 that the requirement of obtaining viscera report stands dispensed with, the present writ petition is being allowed in the following terms:-

(A) Petitioner within a period of one month from today shall prefer a representation before the respondent no.2, District Magistrate, Etah alongwith the certified copy of the order so passed today annexing with complete documents in support of his claim.

(B) The respondent no.2, District Magistrate, Etah, on receipt of the representation so preferred by the petitioner, shall decide the claim of the petitioner within a further period of one month for grant of compensation/ex-gratia payment to the tune of Rs.4,00,000/- without insisting for the requirement of viscera report in the light of the observation made herein above."

5. Learned Additional Chief Standing Counsel has opposed the the writ petition and submits that there is no infirmity in the report dated 20.01.2022 and the writ petition is liable to be dismissed.

6. We have proceeded to examine the record in question and find that the claim of the petitioner has been rejected only on the ground that as per the viscera report, it was not found that the deceased died due to snake bite. It is accepted in the punchnama report dated 13.07.2022 and post mortem report, which was

prepared and conducted by Dr. Dheeraj Pandey, N.P.H.C., Dewara, Prayagraj, that the death was caused due to "Pin bite mark present left side back of chest, except no injury seen all over the body". Once it is admitted that as per post mortem report, the cause of death was due to insect bite then rejection of the claim of the petitioner for ex-gratia payment merely on account of viscera report in which it was found that the deceased was not died due to snake bite, would be hyper technical.

7. After hearing learned counsel for the parties and considering the facts and documents on record, we have no hesitation in saying that the ratio of the aforesaid judgment applies in this case also. Accordingly, the order dated 20.01.2022 is set-aside. The respondents are directed to take a decision in the light of the judgment dated 29.04.2022 quoted above keeping in mind the observations made in this judgment within a period of two months from the date of receipt of the certified copy of this order.

Order Date :- 1.11.2023

Rama Kant