

**Court No. - 40**

**Case :-** WRIT - C No. - 39320 of 2023

**Petitioner :-** Agyaram

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

**Counsel for Petitioner :-** Ramesh Chandra Pathak

**Counsel for Respondent :-** C.S.C.

**Hon'ble Mahesh Chandra Tripathi,J.**

**Hon'ble Prashant Kumar,J.**

1. Heard learned counsel for the petitioner and learned Standing Counsel for State respondents.

2. Present writ petition has been preferred seeking a direction in the nature of certiorari quashing the order dated 11.08.2023 (wrongly averred as 17.08.2023 in the prayer clause of writ petition) passed by District Magistrate, Basti- respondent no.2 by which the claim of the petitioner under "Uttar Pradesh Mukhyamantri Krishak Durghatna Kalyan Yojna" has been rejected.

3. It transpires from the record that the petitioner is son of late Smt. Somana, who was a farmer having small land holding area 0.0060 hectare in the Gata No.137kh situated at Village Salhadipur, Tehsil Harraiya, District Basti, which is evident from the Khatauni of Fasli year 1429/1434 and the whole family sustain upon the income from the said agricultural land. It is claimed that she died due to snake bite. The petitioner had moved an application for according ex-gratia payment under "Uttar Pradesh Mukhyamantri Krishak Durghatna Kalyan Yojna" in the light of the Government of India orders dated 17.10.2018 and 08.07.2021 on the ground that the petitioner's mother died due to snake bite. The respondents have processed the application and accorded financial assistance of Rs.5 lacs as ex-gratia and finally the application was rejected by the order impugned. Even though the said order has not been served to the petitioner and the information was obtained under the Right to Information Act 2005.

4. Learned counsel for the petitioner vehemently submitted that the claim of the petitioner is sustainable in view of the aforesaid Government Orders as the mother of the petitioner died due to snake bite. The same is reflected from the referral order made by the C.H.C. Harraiya, Basti to the District Hospital, Basti, which is

also brought on record as Annexure No.3 to the writ petition, wherein, it is indicated that the case/patient pertains to 'Snake Bite' and there is 'sign of poisoning' alongwith presence of mark. He submits that there is no dispute that the mother of petitioner died due to snake/insect bite. In support of his submission, he has placed reliance upon the judgement and order passed by this Court in **Writ C No.9000 of 2022 (Om Prakash vs. State of UP and others) decided on 29.04.2022, reported in 2022 (8) ADJ 260 (DB)** and stated that in the light of said order/judgement, the respondents may be re-directed to process the application of petitioner. The relevant part of the aforementioned judgement is extracted 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.** Per contra, learned Standing Counsel states that the claim set up by the petitioner is not sustainable and there is no infirmity or illegality in the order passed by the Authority, which warrant any interference in the matter.

**6.** In the present matter, much emphasis has been placed upon referral order, wherein, categorical remark is endorsed that there is 'Sign of Poisoning'. Learned Standing Counsel could not dispute the said aspect of the matter. Considering the facts and

circumstances, it would be apt that the respondents may revisit the claim set up by petitioner. Accordingly, we set aside the order impugned dated 11.08.2023. The writ petition is ***partly allowed***. Petitioner may furnish all documents in support of his claim before the Competent Authority. The Competent Authority is directed to revisit the matter and take a final decision considering the documents so furnished by the petitioner in the light of judgement of this Court in ***Om Prakash (supra)*** within a period of six weeks from the date of receipt of certified copy of this order.

**Order Date :-** 16.11.2023

Sachin