

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.20379 of 2014

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1. Bibi Firoza aged about 70 years divorced wife of Late Md. Nasiruddin and mother of Md. Quaiyum (deceased), R/o MOhalla- Asandpur, Line Bagh, P.S.- Tatarpur, District- Bhagalpur

.... Petitioner

Versus

1. The State of Bihar, through the Special Secretary, Home (Special) Department, Govt. of Bihar, Old Secretariat, Patna.
2. The Deputy Secretary, Home (Special) Department, Govt. of Bihar, Old Secretariat, Patna
3. The District Magistrate, Bhagalpur, District- Bhagalpur
4. The Additional Collector cum Senior Officer (Dangacel), District- Bhagalpur
5. The Circle Officer, Jagdishpur Block, District- Bhagalpur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Atiullah, Advocate

For the Respondent/s : Mr. N. HODA KHAN, SC18

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 09-02-2016

Heard Mr. Atiullah, the counsel for the petitioner and Mr. N. Hoda Khan, SC-18 for the respondent State.

A counter affidavit has been filed on behalf of the respondents no. 1, 2, and 5. The petitioner has filed the supplementary affidavit bringing on record the undertaking on the sanctioned order passed in favour of her deceased husband.

It is not in dispute that the petitioner is the biological mother of her minor son who lost his life during the riots, which broke out in 1989 in and around Bhagalpur. The victim boy was borne from the wedlock of petitioner with Md. Nasiruddin. The



State Government as a policy decision decided to give pension to the dependents of the riot victims of Bhagalpur. Vide order dated 29.11.2007 (Annexure-1), payment of pension at the rate of Rs. 2500/- per month effective from 01.09.2007 was issued in favour of the father of the victim. The father had by then divorced the petitioner and contracted marriage with another lady. An undertaking was given by him (the father) that he shall apportion the pension amount between him and his divorced wife (the petitioner). The aforesaid fact is evident from Annexure-1A of the supplementary affidavit. In December 2013, vide an order contained in Annexure-2, the pension amount was increased from Rs. 2500/- per month to Rs. 5,000/- per month. The recipient of the family pension (father) died on 07.07.2011. The payment of pension was stopped. The petitioner being the mother of the victim filed an application before the respondent-District Magistrate for sanction of the pension in her favour. At this stage, it would be relevant to notice that the father or the mother of the victim was entitled to grant of such pension. The respondents having not acceded to her request by granting the payment of pension to her, the writ petition has been filed.

Annexure-4 series have been enclosed along with the writ petition to demonstrate that upon death of one of the parents, the

respondents have sanctioned pension to the surviving parent.



The counsel for the State has submitted with reference to paragraph 9 and 10 that the petitioner being the divorced wife of Md. Nasiruddin would not be entitled to grant of pension/family pension, I fail to appreciate the same. If the father or mother of the minor victim boy was entitled to pension, and the same was sanctioned in favour of the father, how the same can be denied in favour of the mother of the victim boy after death of his father? The pension is claimed not account of being that the wife of Md. Nasiruddin but on the strength of the fact that she is the surviving mother of the riot victim. As noticed, it is not the case of the respondent that in case of death of father or mother, it cannot be extended to the surviving mother or father. That apart, the respondents have been sanctioning such pension in case of death of one, in favour of surviving mother or father. The aforesaid pleadings of the petitioner remain un-controverted.

Seen thus, the court finds much substance in the submission(s) of the counsel for the petitioner in support of the writ application and if it is held that the petitioner being the biological mother of the riot victim boy shall be entitled to grant of the pension, even if she is a divorced wife of the father of the victim.

The writ application stands disposed of by directing the

respondents particularly the District Magistrate to sanction pension/family pension, as the case may be, in favour of the petitioner, within 04 weeks from the date of production/receipt of a copy of this order before him along with an application seeking such grant of pension/family pension to her.

(Kishore Kumar Mandal, J)

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