

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8805 of 2014

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Shashikant Mishra Son of Chichand Mishra resident of Mohalla - Dumaria Bhatha
Near Shahi Mandir, Ward No. 29 Kishanganj, District - Kishanganj, (Bihar)

.... Petitioner/s

Versus

1. The State of Bihar
2. The Special Executive Officer Disaster Management Department Bihar, Patna
3. The District Magistrate, Kishanganj
4. The Additional Collector Disaster Management Department, Kishanganj
5. The Circle Officer, Kishanganj

.... Respondent/s

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Appearance :

For the Petitioner/s : Mrs. Asha Verma Sanjana

For the Respondent/s : Mr. J.K. Roy, SC-13

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 24-10-2016

Heard both sides.

2. The son of the petitioner had gone on pilgrimage to the State of Uttarakhand. He fell victim of the natural calamities and lost his life. Several others who visited the area had also fallen prey to the wrath of nature. The State of Uttarakhand awarded by way of compensation to such of the persons who became victim of the tragedy an ex-gratia amount of Rs. 3,50,000/- payable to the next of kin. In these factual backgrounds, the list of the victims was provided to the State Government by the State of Uttarakhand, a copy whereof is enclosed as Annexure-1. Serial No. 24 thereof, states the name of Sri Sanjeet Kumar being S/o Sri Shashikant, R/o Kishanganj in the



State of Bihar. The death registration number is also provided. The State Government was required to provide the ex-gratia amount so received to the father of the victim upon verification. The petitioner has claimed himself as father of the victim and filed the writ application to provide him the ex-gratia amount sanctioned by the State of Uttarakhand. Diverse communications thereafter ensued. From the letter of the Special Secretary, Department of Disaster Management, Government of Bihar (Annexure-1 to I.A. No. 8294 of 2014), it appears that initially the cheque was returned to the District Authorities saying that the parentage of Sri Sanjeet Kumar Mishra is late Chichand Mishra, whereafter the Additional Collector vide letter dated 16.08.2013 reported that victim Sanjeet Kumar Mishra and his father was a resident of Mohalla-Dumaria Bhatta, district-Kishanganj. Subsequently, another report was submitted by another authority that Sri Sanjeet Kumar was the son of late Chichand Mishra and nobody like this existed in Mohalla-Dumaria Bhatta, district-Kishanganj.

3. In the counter affidavit, it is stated that the respondents-State was required to pay the ex-gratia amount received from the State of Uttarakhand to the eligible person upon proper verification. In paragraph 10, it is stated that the petitioner was required to submit some document(s) such as Ration Card, Voter List, Bank Pass-Book, Aadhar/School Leaving Certificate. It is stated on behalf of the



petitioner that the voter list of the petitioner has been provided. A copy whereof is enclosed as Annexure 5/1. The petitioner has also filed an affidavit before the Authority to the effect that he is the father of the victim. Late Chichand Mishra was, in fact, the grand father of the victim. From the voter list (Annexure-5/1) it appears that the petitioner is registered as an elector/voter being son of late Chichand Mishra. Along with supplementary affidavit, the petitioner has enclosed a certificate issued by the Head Mistress of Government Middle School, Raghunathpur, Banmankhi (Purnea) in respect of the victim which records his name as Sanjeet Kumar Mishra, S/o Sri Shasikant Mishra. There appears adequate material on records to demonstrate that the petitioner being the father of victim is the *bona fide* claimant. That apart, till today, no other person has filed any such claim for payment of the ex-gratia amount sanctioned by the State of Uttarakhand in respect of the said victim. There is no dispute that Sri Sanjeet Kumar Mishra while traveling in the State of Uttarakhand became victim of the disaster. The only issue is whether the amount of ex-gratia be paid to the petitioner, who is the only claimant thereto being the father of the victim. The tragedy occurred in 2013. The amount of ex-gratia for all the victims of the tragedy was sanctioned and made available to the concerned State Government in November, 2013. Till today, the same has not been



made available to the *bona fide* claimant. The petitioner being the father has claimed the payment of the amount inasmuch as in preliminary inquiry, he was found the father of the victim and the resident of the said mohalla. Confusion about the name of the father of the victim as Chichand Mishra, however, later arose. From Annexure-5/1, it is apparent that late Chichand Mishra was the father of the petitioner. That apart, the petitioner has furnished his voter list and voter card as also the school leaving certificate of the victim. The respondents could have made a call after verifying the records. The same has, however, not been done so far.

4. In the circumstances, this Court has looked through the relevant document(s) produced by the petitioner which indicate that he is the father of the victim. An affidavit to this effect along with the copy of the voter list, voter ID and school leaving certificate have also been enclosed. Late Chichand Mishra was definitely a member of the family of the victim. He was the grand father of the victim. In my view, the ends of justice shall be served, if the respondents are directed to make payment of the ex-gratia amount in favour of the petitioner on an undertaking on affidavit furnished by him that in the event of any claim being raised by any other claimant, he would return the amount to the concerned Authority and would face the other legal consequences thereof. Upon furnishing such undertaking

before the respondent-District Magistrate, the ex-gratia amount shall be disbursed in favour of the petitioner without any delay.

5. The writ application is disposed of.

(Kishore Kumar Mandal, J)

rohit/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	29.10.2016
Transmission Date	N.A.