

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13123 of 2013

Bibi Julekha W/O Late Moin Resident Of Village- Logain, Circle- Gouradih, District- Bhagalpur At Present Residing At Village Dhain- Harha, P.S And Cirlce- Rajoun, District- Banka.

.... Petitioner/s

Versus

1. The State Of Bihar through the Chief Secretary, Old Secretariat, Patna.
2. Union Of India through its Secretary, The Ministry Of Home Affairs (Grih Mantralaya), (H.R Division- Nic Section), Lok Nayak Bhawan, Khan Market, New Delhi.
3. The Principal Secretary, Department of Home (Special), Government of Bihar, Patna.
4. The Principal Secretary, Relief and Rehabilitation Government of Bihar, Patna.
5. The Special Secretary, Department of Home (Special), Government of Bihar, Patna.
6. The Commissioner, Bhagalpur Division, Bhagalpur.
7. The District Magistrate, Bhagalpur.
8. The District Magistrate, Banka.
9. The Sub Divisional Officer, Bhagalpur.
10. The Sub Divisional Officer, Banka.

.... Respondent/s

Appearance:

For the Petitioner/s : Mr. SUBODH KUMAR JHA
Mr. B.C.Jha
Mr. Sandeep Jha
For the State Mr. Prabhat Ranjan, AC to G.P.12
For respondent no.2 Mr. S. N. Pathak

CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL JUDGMENT
Date: 12-05-2016

Heard Mr. Jha for the petitioner and AC to GP-12 for the State.

A counter affidavit is filed on behalf of the State respondent(s).

The writ petition prays for a direction upon the respondents to pay the petitioner ex-gratia payment for the death of 03 members of her family during the gory riot which broke out in 1989-90 in and around the district of Bhagalpur, popularly known as Bhagalpur riot. She also prays for quashing of the order dated 16.03.2013 which, on perusal of the record, appears that no approval

was affixed by the District Magistrate. Unquestionably, no formal order is issued either rejecting or accepting the claim of the petitioner for payment of ex-gratia amount for the death of the 03 members of her family as per the decision/resolution of the State Government.

In the said riot 07 persons in the family of the petitioner, namely, husband, the mother-in-law, 03 unmarried Devars, father-in-law and a small kid (Nanad) were killed. The petitioner raised a claim for payment of ex-gratia amount to her as per the resolution of the State Government contained in the letter dated 29.12.1989 (Annexure-4). It further appears that her claim in respect of 04 deceased members, namely, Md. Moin, Bibi Doulati, Md. Mokhtar was allowed. She was treated as the family person entitled to grant of ex gratia payment. Be it further noted that subsequently the petitioner married another member of the family of her husband after his death in the riot. She now raises a claim for payment of ex gratia amount for the remaining 03 deceased members of her family namely Md. Mokim (unmarried Devar) Md. Rashid (unmarried Devar) and Bibi Minu (unmarried Nanad).

The counsel for the petitioner has referred to Annexures-8, 9, 10 & 13 in order to submit that the petitioner, in view of the relaxation in definition of the family member or dependent, is entitled to payment of ex gratia amount as was initially recommended by the Addl. Collector cum Sr. Officer, Riot Cell, Bhagalpur on 31.07.2012.

The counsel for the State has disputed the said claim of the petitioner, on amongst others, the ground that the petitioner in view of definition of the family or the dependent cannot be treated as the person member entitled to receive the ex gratia amount for the deceased members of the family.

The State Counsel has referred to the circular(s) of the government

which, according to him, restricts the definition of the family as set out thereunder.

One thing, however, is apparent that no formal order has been passed and communicated to the petitioner by the respondent either rejecting or accepting the claim. The Court, in this view of the matter, would not record its opinion on the submissions of either the petitioner or the State. The District Magistrate is said to be the authority who shall has to take a decision on examination of relevant facts which requires to be communicated to the claimant (petitioner). Indisputably, the same is lacking in the case. Only a noting in the file has been produced by the petitioner as Annexure-1 stating that the respondents have denied her claim.

Taking into account the aforesaid facts emerging from the records, this Court would dispose of the writ application by directing the respondent District Magistrate or any other competent authority to consider the pending claim of the petitioner and take appropriate decision in accordance with law. Since the matter is old, the Authority is expected to take a decision in the light of the observation/direction made hereinabove as quickly as possible, preferably within 02 months from the date of receipt/production of a copy of this order before the said respondent/authority.

(Kishore Kumar Mandal, J)

HR/-

U			
---	--	--	--