

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Writ Petition No. 24592 of 2013

Date of Decision: 10.8.2016

Santosh Devi

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Mr. Naresh Kumar, Advocate for
Mr. R.D. Yadav, Advocate
for the petitioner.

Mr. R.K. Doon, AAG, Haryana.

RAMESHWAR SINGH MALIK J. (ORAL)

Present writ petition is directed against the order dated 19.6.2013 (Annexure P-8), issued by the Director General, Social Justice and Welfare Department, Haryana-respondent No.2, thereby denying claim of the petitioner under Rajiv Gandhi Pariwar Bima Yojna ('the Scheme for short).

Notice of motion was issued and in compliance thereof, reply on behalf of respondent No.2 to 5 has been filed.

Heard learned counsel for the parties.

Facts are hardly in dispute. Late Sh. Raj Kumar-husband of the petitioner died in a road accident on 17.4.2011. FIR No. 74 dated 17.4.2011 was registered at Police Station Kosli, District Rewari under Sections

279/304-A IPC. Post Mortem was also conducted on 17.4.2011. Petitioner immediately informed the Halqa Patwari about the death of her husband. Halqa Patwari furnished his report dated 22.6.2011, i.e. within a period of less than two months from the date of death, certifying that petitioner is widow of Late Sh. Raj Kumar, son of Sh. Chunni Lal. On the report of Halqa Patwari, Tehsildar, Kosli, forwarded the matter to the concerned officer for necessary action which is clear from Annexure P-3. These specific averments taken by the petitioner in para 5 of the writ petition have gone undisputed, as the respondents in the corresponding para of their written statement have stated that averments made in para 5 of the writ petition are matter of record and thus, need no reply.

The only misplaced contention raised on behalf of the respondent authorities was that claim of the petitioner was time barred having been presented beyond a period of six months, thus not in conformity with para 5 of the Scheme Annexure P-1. So far as claim of the petitioner on merits is concerned, the same has not been denied by the respondents. A sole ground taken in the written statement is that the petitioner did not apply in time. However, this stand has also been found factually incorrect in view of the undisputed averments taken in para 5 which was supported by the report Annexure P-3.

Further, a bare reading of the impugned order dated 19.6.2013 (Annexure P-8) would show that claim of the petitioner was not denied on account of delay. In fact, no reason whatsoever, has been assigned by respondent No.2, while declining the claim of the petitioner in most arbitrary manner. It is pertinent to note here that whatever the petitioner could do on her part, she has done well within time. Thereafter, it were the

respondent authorities who either did not have proper coordination amongst themselves or did not take appropriate decision at the relevant point of time and finally, claim of the petitioner was arbitrarily declined only on the basis of technicality, without touching merits of the case. Such a cryptic and non speaking order cannot be upheld.

If the object of the Scheme is to be considered and appreciated in the correct perspective, it leaves no scope for doubt that claim of the petitioner was squarely covered under the Scheme (Annexure P-1). However, respondent authorities have miserably failed to appreciate true object of the Scheme, while passing the impugned communication (Annexure P-8). It goes without saying that the Scheme, Annexure P-1, is a welfare Scheme and claim of the rightful claimants thereunder cannot be denied on technicalities. On the other hand, respondent authorities are expected to proceed on a positive and justice oriented approach ignoring the technicalities, if any, while considering the genuine claim of the bonafide claimants. So far as instant case is concerned, although there is no technical difficulty therein, yet the same has been declined in an arbitrary manner and that too, without assigning any reason, thus, the impugned order cannot be upheld, for this reason as well.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that impugned order dated 19.6.2013 (Annexure P-8) passed by respondent No.2 has been found suffering from patent illegality and perversity, thus, it cannot be upheld. Accordingly, impugned order dated 19.6.2013 passed by respondent No.2 is hereby set aside.

Consequently, petitioner is declared entitled for the compensation under the Scheme and the respondent authorities are directed to grant financial assistance to the petitioner under the abovesaid Scheme (Annexure P-1) without any further loss of time and in any case within a period of two months from the date of receipt of certified copy of this order, failing which, petitioner shall be entitled for the due amount along with interest @ 9 % per annum, from the date of report dated 22.6.2011 (Annexure P3) till the date of payment.

Resultantly, with the abovesaid observations made and directions issued, present writ petition stands allowed, however, with no order as to costs.

(RAMESHWAR SINGH MALIK)
JUDGE

10.8.2016
Ak Sharma

Whether speaking/reasoned Yes/No
Whether reportable: Yes/No