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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 11165/2015 & CM Nos.2137/2016 (*directions*) & 29006/2015 (*stay*)

JANHIT SAMAJIK NAYAY AWAIM KALYAN SAMITI ..... Petitioner

Through: Mr.Vijay K.Bansal.

versus

LT. GOVERNOR GOVT. OF NCT OF DELHI AND ORS. ..... Respondents

Through: Mr.Anuj Aggarwal, ASC for R-2 to 4/GNCTD.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE JAYANT NATH

O R D E R

% **11.02.2016**

1. The petitioner is a registered society under the Societies Registration Act, 1860 and claims to be working for the welfare of the senior citizens as well as financially weaker sections.

2. This petition has been filed as a Public Interest Litigation seeking *inter alia* to quash the order dated 29.08.2014 passed by the Department of Social Welfare, Government of NCT of Delhi regarding processing of the applications made for grant of old-age pension in terms of the provisions of the Old-Age Assistance Rules, 2009.

3. We have heard the petitioner appearing in person and the learned counsel appearing for the respondent Nos.2 to 4.

4. The Old-Age Assistance Rules, 2009 were made by the Lieutenant Governor of National Capital Territory of Delhi vide Notification dated

04.11.2009 for providing social security by way of financial assistance to destitute old persons who are without any means of subsistence and without anybody to support them in the evening of their lives. Rule 4 of the Rules prescribes the eligibility criteria for grant of financial assistance. Rule 5 of the said Rules provides for the procedure for making an application. According to the Rule, the application shall be in the prescribed form which shall be available from the various places specified therein or by electronically downloading from official websites of Samajik Suvidha Sangam or Department of Social Welfare. The applicant is also required to produce proof of residence in Delhi for at least five years, proof of age, a self-declaration regarding his/her income and etc. Rule 6 provides that the District Social Welfare Officer shall be the competent authority for verification and sanction of the payment of allowance after being satisfied about the contents of the application. Rule 7 of the Rules which deals with mode of payment reads as under:

> "**7. Quantum of assistance & Mode of payment:**
>
> (a) Subject to the fulfilment of the provisions of the scheme, an allowance will be remitted quarterly in the bank/ post office account of the beneficiary @ Rs. 1000/- per month (Rs. One thousand per month) per head through ECS of RBI.
>
> (b) The assistance shall become payable from the month from which it is sanctioned."

5. It is not in dispute that the said scheme for old-age pension runs under a ceiling limit. In the year 2014, the ceiling was enhanced by 40,000 cases i.e. the number of pensions that can be granted was enhanced from 3.90 lakhs to 4.30 lakhs. Pursuant thereto, Rule 7(b) of the Old-Age Assistance Rules, 2009 has also been amended. The amended Rule 7(b) is

reproduced hereunder:

> "**New applications under the Old Age Pension Scheme shall be received within the overall ceiling applicable at the time, subject to the approval of the Competent Authority. Thereafter, if found eligible, the assistance would become payable from the month subsequent to the month of application.**"

6. Under the impugned order dated 29.08.2014, certain decisions have been taken by the Department of Social Welfare, GNCTD in order to streamline the processing of applications and to promote transparency in grant of old-age pensions including to accept all applications only from the applicant himself/herself in the concerned district office. The impugned order also mentions that it will be mandatory for the applicant to submit application form complete in all respects including Aadhar numbers or Enrolment numbers and it is also necessary to bring originals of all submitted documents so that the same may be verified then and there and their particulars are entered into the MIS Integrated Welfare Delivery Platform.

7. The impugned order is assailed in the present petition contending –

(i) that the new procedure prescribed has resulted in undue delay in processing the applications and releasing the financial assistance to the needy and thus the very object of the Old-Age Pension Scheme is defeated;

(ii) that computer generated receipts are not being issued by the respondent Nos.5 and 6 and they are also not accepting the applications from the disabled and handicapped persons;

(iii) that the amendment to Rule 7(b) thereby extending the financial assistance from the month subsequent to the month of application is unwarranted and unjustified being contrary to the object of the scheme;

(iv) that as per the impugned order dated 29.08.2014, the applications are being received only during a short period of a week or so whereas prior to the impugned order the applications were being received throughout the year.

(v) The requirement of being personally present is wholly arbitrary. The applicants being old in age have in the past been submitting applications through a third party. The present order dated 29.08.2014 requiring the personal presence of the applicants would cause immense hardship and difficulty to the applicants.

8. In the counter affidavit filed on behalf of the respondent No.4/Department of Social Welfare, GNCTD, it is explained that the impugned order dated 29.08.2014 has been issued in order to streamline the entire process without giving room for any corruption. It is also stated that after verification of the existing beneficiaries, it was found in the month of July, 2015 that 20,000 vacancies have been created due to death, migration or ineligibility of the existing beneficiaries. The said 20,000 vacancies were distributed among the 70 constituencies of Delhi and the Department of Social Welfare started accepting new applications from 22nd July, 2015 at the respective District Offices. Though computer generated receipts are not issued due to infrastructural issues, all the applicants have been issued receipts in the prescribed form. The applications at the District Offices are

being accepted on first-cum-first served basis subject to availability of vacancies in the respective constituencies. By the date of the filing of the counter, applications were received for 18,517 out of 20,000 vacancies that were identified in July, 2015 and after due verification the payment has also been released to their bank accounts. Altogether 3.87 lakhs of beneficiaries have been extended the financial assistance out of the total 4.30 lakhs of beneficiaries. It is also mentioned that for the year 2015-16, Rs.600 crores have been allocated in the Budget for extending the financial assistance under the scheme. It is also explained that as decided in the meeting dated 01.12.2015 convened by the Chief Minister re-verification of 30,000 cases whose pension has been withheld has been done and the data is being digitized to ascertain the number of beneficiaries eligible to receive the financial assistance under the scheme. Regarding the allegations of delay in processing the applications, it is stated that a time limit of 45 days has been stipulated for verification as to whether the applicant has fulfilled the eligibility criteria and the application would then be either rejected or sanctioned. In case of individuals who have not furnished the complete documents, deficiency memo is being issued and those persons who furnish the material specified in the deficiency memo are sanctioned the pension within the stipulated time. It is also stated that the pension becomes payable in the sanctioned cases from the month subsequent to the month of receipt of application and the pension is paid quarterly in the bank account of the applicant by way of ECS or through Aadhar enabled payment system.

9. In the light of the details furnished in the counter affidavit explaining the procedure being followed by the respondents, it appears to us that all necessary measures have been taken to maintain transparency in

implementation of the Old-Age Pension Scheme. It may be true that as per the amended Rule 7(b), the financial assistance would be made available from the month subsequent to the month of application, however, the same cannot be held to be arbitrary or illegal in view of the need for verification of the particulars furnished by the applicant. In our view it is equally essential to ensure that the welfare scheme is not misused and only the genuine and eligible people are extended the financial assistance provided under the scheme. The stipulated period of 45 days for the purpose of the verification, according to us, is reasonable and does not defeat the object of the scheme. Since the scheme is being implemented on first-cum-first served basis subject to the ceiling limit of 4.30 lakhs of beneficiaries, it is essential to maintain utmost transparency in processing the applications from the stage they are received till appropriate decision is taken either for a sanction or rejection and therefore we direct the respondents to digitize the entire data and to ensure public access.

10. So far as the grievance of the petitioner that the applicants under the impugned order dated 29.08.2014 are compelled to submit applications in person is concerned, we found that the said order itself mentions certain exemptions as under:

> "Exception in submission of the form by the applicant in person at the concerned District Office may be made for severely ill, bed ridden or very old applicants or those who do not have any assistance to approach the district office. In such situations, the applicant and/or any other person known to the applicant may send a letter by post requesting assistance. In case of such requests, you shall then depute staff to do the home visit and complete the application requirement from the residence of the applicant or any other place (like hospital, institution etc.) where the applicant may be admitted."

11. We were informed by Ms.Saroj Rawat, Deputy Director, Financial Assistance Section, Deptt. of Social Welfare, Govt. of NCT of Delhi who was present during the hearing that in appropriate cases the staff members of the department are being deputed for home visit to assist the applicants for filing the duly filled applications.

12. Regarding the grievance of the petitioner that the applications are received only during a short period of one week or so, in our opinion, the grievance lacks merit. The respondents have limitations on the number of beneficiaries to whom the financial assistance can be extended which as per the present Budget is 4.30 lakhs. The applications are being accepted on first come first service basis inasmuch as after exhaustion of the stipulated number, it would not be feasible for the respondents to accept any further applications. In our opinion, the procedure that is being followed by the respondents cannot said to be erroneous.

13. In these circumstances, we do not find any illegality in the impugned order dated 29.08.2014 and we also do not find need for issuing any further directions as sought by the petitioner.

14. The writ petition is accordingly disposed of with the following directions:

i) Wherever a written request is received in writing by any means from an old aged applicant for financial assistance stating his inability to come in person, the request shall be registered as an application. The procedure as per the order dated 29.08.2014 provided for home visit shall be followed immediately and the entire process shall be completed within time limit of 45 days as stipulated for verification of the applications.

ii) Whenever the applications are invited by any office of the respondent from eligible applicants for financial assistance, adequate publicity shall be given so that those desirous of seeking financial assistance are duly informed that the respondents are accepting such applications.

iii) The scheme in question be implemented maintaining total transparency and without undue delay at any stage of the proceedings.

CHIEF JUSTICE

JAYANT NATH, J

FEBRUARY 11, 2016

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