

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 8059 of 2014

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Md. Shakoor aged about 72 years Son of Late Md. Sabdul resident of village - Russalpur, P.S. Rajoun, District - Banka at present residing in village - Sajour (Das tola) P.S. Sajour, District - Bhagalpur.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Home Department, Government of Bihar, Old Secretariat, Patna.
2. Joint Secretary, Home (Special) Bihar, Patna Old Secretariat, Patna.
3. District Magistrate-cum-Collector, Banka.
4. Deputy Collector, Incharge Riot Victim Banka Collectorate, Banka.
5. Circle Officer, Rajoun, District - Banka.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Alim Jang Khan, Advocate
For the State	:	Mr. Sriram Krishna, A.C. to S.C. 11

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 10-01-2017

Heard learned counsel for the parties.

The present writ application has been filed by the petitioner seeking payment of ex-gratia compensation on account of the killing of his daughter and two grand daughters in the infamous Bhagalpur Riots in the year 1989.

Learned counsel for the petitioner submitted that the amount is not being paid to her in view of the erroneous interpretation by the District Magistrate, Banka that the amount shall be paid to the uncle of the two grand daughters (father's brother). It was submitted that the payment with regard to the daughter has already been made to him. Learned counsel submitted that as per the



policy of the State Government in the Department of Home (Special) dated 20.12.1989 as contained in Memo No. 611, the payment has to be made to the 'Next of Kin' of the deceased. He submitted that as per the Muslim Personal Law, the uncle is not a beneficiary of the property and such compensation being in the nature of 'property', the payment has to be made either to the direct beneficiary or to the person closest to such beneficiary, in which the petitioner, being the maternal grandfather, is the person who is entitled to receive such payment.

Learned counsel for the State submitted that the action of the District Magistrate, Banka cannot be faulted as he has interpreted the policy of the Government in a manner which cannot be said to be perverse. However, he submitted that the Government may clarify the position so that the real beneficiary receives the payment.

Faced with the situation, learned counsel for the petitioner submitted that he may be permitted to represent to the Government for legal and valid interpretation of the policy as contained in the aforesaid Memo No. 611 dated 20.12.1989, so as to specify that the 'Next of Kin' in the present case shall mean the petitioner, who is the maternal grandfather, and not the paternal uncle of the two girls killed.



Accordingly, the writ petition stands disposed off with liberty to the petitioner to make a detailed representation before the respondent no. 1, within four weeks from today, along with a copy of this order enclosing all relevant materials. Upon receipt of the same, the respondent no. 1 shall decide the issue, in accordance with law, by passing a reasoned order, within one month thereafter. Pursuant to such clarification/decision, the claim of the petitioner, as raised in the present writ application, shall be considered and if it is found that he is entitled for such payment, the same shall be paid to him within the next two months.

(Ahsanuddin Amanullah, J.)

P. Kumar

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