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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 3913 of 2015**

1. Smt. Neeta Mishra W/o Late Vijay Prakash Mishra, Aged About 45 Years R/o Near Universal Public School, Amarkherwa Road, Ward No. 20, Manendragarh, District Koriya (Chhattisgarh)

2. Ku. Shreya Mishra D/o Late Vijay Prakash Mishra, Aged About 14 Years

3. Abhinav Mishra S/o Late Vijay Prakash Mishra, Aged About 12 Years

Both are minor therefore through guardian their mother namely Smt. Neeta Mishra W/o Late Vijay Prakash Mishra, Aged About 45 Years R/o Near Universal Public School, Amarkherwa Road, Ward No. 20, Manendragarh, District Koriya (Chhattisgarh)

---- **Petitioner****Versus**

1. Life Insurance Corporation Of India Through The Managing Director, Central Zonal Office, Hoshangabad Road, Bhopal (Madhya Pradesh)

2. The Manager (E & OS) Life Insurance Corporation, OS Department, Divisional Office Shahdol, District Shahdol (Madhya Pradesh)

3. The Manager, (Personal Services) Life Insurance Corporation, Divisional Office Shahdol, District Shahdol (Madhya Pradesh)

4. Ajay Prakash Mishra S/o Shri Ravi Shankar Mishra, Aged About 42 Years

5. Smt. Shail Mishra W/o Shri Ravi Shankar Mishra, Aged About 68 Years
Both are resident of village Sevra, Post Kudkai, Via Pendra, District Bilaspur (Chhattisgarh)

---- **Respondents**

For Petitioner	: Shri Rakesh Pandey, Advocate.
For Respondents No.1 to 3	: Shri Mukhesh Sharma, Advocate.
For Respondents No.4 and 5	: Shri Amit Kumar Sahu, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Judgment on Board****23/02/2017**

1. This petition has been filed by the Petitioners under Article 226 of the Constitution of India claiming the following relief(s):-

“10.1 The Hon'ble Court may graciously be pleased to issue a writ of mandamus thereby setting aside the order Annexure P/1, dated 9.3.2015 issued by respondent No.2 and further be pleased to direct the

respondents to make payment of terminal benefits as mentioned in Annexure P/5 to the petitioner with interest at the rate of 12% per annum, in the ends of justice.

10.2 Any other relief which this Hon'ble Court deems fit and proper be passed in favour of the petitioner along with cost of the petition."

2. The facts of the case are that Late Shri Vijay Prakash Mishra was employed as Development Officer in Life Insurance Corporation, Manendragarh, District Koriya, Chhattisgarh. He expired on 14.9.2014. Petitioner No.1- Smt. Neeta Mishra is wife and Petitioners No.2 and 3, namely, Ku. Shreya Mishra and Abhinav Mishra, are daughter and son of Late Shri Vijay Prakash Mishra. Similarly, Respondent No.4- Ajay Prakash Mishra is brother and Respondent No.5- Smt. Shail Mishra is mother of Late Shri Vijay Prakash Mishra. Petitioner No.1 filed an application before Respondent No.2 on 10.10.2014 informing the Life Insurance Corporation (hereinafter referred to as 'Corporation') that she is the wife and Petitioners No.2 and 3 are children of Late Shri Vijay Prakash Mishra and they are the only successors. This information was given to the Corporation on the basis of the communication received from Respondent No.2 dated 9.3.2015, in which it was informed that she was not registered as nominee in the official records for payment of terminal benefits with respect to the death of Late Shri Vijay Prakash Mishra. Thereafter, this petition was filed claiming the aforesaid relief(s).

3. In reply, Respondents No.1 to 3 submitted that Late Shri Vijay Prakash Mishra had nominated Respondent No.4- Ajay Prakash Mishra as nominee in the official records and he did not change the same during his lifetime. It was admitted that Petitioner No.1 has been granted compassionate appointment but terminal benefits could not be paid to her as per legal requirement on the basis of the prevailing provisions of law. The entitlement

of the Petitioners is not disputed. It was pleaded that Petitioner No.1 was required to establish her claim through proper legal proceedings initiated before the Court of competent jurisdiction and not by way of the present petition.

4. After filing of the reply, Petitioners No.2 and 3 as well as Respondents No.4 and 5 were impleaded as party. Respondent No.4 has not filed any written reply but has submitted an affidavit dated 25.1.2016, in which he has made a statement that in capacity of nominee of Late Shri Vijay Prakash Mishra, he is willing to receive the payment of terminal benefits from the Corporation and disburse the same to the beneficiaries. No reply has been submitted by Respondent No.5.

5. Learned Counsel for the Petitioners submits that nomination by itself gives no entitlement to the nominee. On the contrary, it imposes a duty on the nominee to receive and disburse the proceeds to the claimants.

6. Reliance has been placed on the judgment of Hon'ble Supreme Court in the matter of *Shipra Sengupta v. Mridul Sengupta & Others*, (2009) 10 SCC 680, in which it was held that it is well settled that mere nomination made in favour of a particular person does not have the effect of conferring on the nominee any beneficial interest in property after the death of the person concerned. The nomination indicates the hand which is authorized to receive the amount or manage the property. The property or the amount, as the case may be, can be claimed by the heirs of the deceased in accordance with the law of succession governing them.

7. Reliance has also been placed on the judgment of Hon'ble Supreme Court in the matter of *Smt. Sarbati Devi & Another v. Smt. Usha Devi*, AIR 1984 SC 346, in which it was held that nominees under the policy do not get

any beneficial interest.

8. The aforesaid judgments have been followed by this Court in the matter of *Smt. Lakhan Bai v. Rambai & Others* in *Writ Petition (227) No.356 of 2010*, decided on 3.11.2015 and held accordingly.

9. Thus, it is very clear from the above settled view that the nominee i.e. Respondent No.4 is simply a trustee and he himself has no entitlement to the terminal benefits due on account of death of Late Shri Vijay Prakash Mishra. In this view of the matter, in the present case, the persons entitled for receiving the terminal benefits on account of death of Late Shri Vijay Prakash Mishra are the Petitioners and Respondent No.5 as per the law of succession, although there is no pronouncement of any Court regarding the succession of Late Shri Vijay Prakash Mishra but it is not being disputed by any of the parties in this petition.

10. For these reasons, it is clearly established that the Petitioners and Respondent No.5 are the persons entitled to receive the terminal benefits from Respondents No.1 to 3 on account of death of Late Shri Vijay Prakash Mishra, who had been employed in the Corporation.

11. Exercising the jurisdiction under Article 226 of the Constitution of India, the relief(s) as sought cannot be ordered for the reasons hereinabove and as per the law and rules of service, the nomination which remains unchanged during lifetime of the employee concerned cannot be changed after his death. Hence, the only course open for the claimants is to seek relief from the Court of law.

12. As per the reply and submissions of Learned Counsel for the Corporation and Respondent No.4, the purpose of bringing this petition shall be served if suitable directions are issued by this Court.

13. This petition is disposed of with the following directions:-

(i) On application being filed by Respondent No.4, Respondents No.1 to 3 shall in accordance with the rules of Corporation disburse the amount of terminal benefits, which is Rs.61,12,509/- calculated till the date of filing of this petition or any other amount in addition thereto as may be found in calculation till date.

(ii) Respondent No.4 in compliance of the assurance and promise given by him in the affidavit before this Court shall after receiving the terminal benefits, disburse the same to the Petitioners and Respondent No.5 in equal proportions.

(iii) Let these directions be complied with by the parties within a period of six months from today and a compliance report be submitted by Respondents No.1 to 4 before Registry of this Court.

Sd/-
(Rajendra Chandra Singh Samant)
Judge