



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.01.2017

CORAM :

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THE HONOURABLE MR.JUSTICE M.S.RAMESH

Writ Petition (MD) No.2951 of 2011
and
M.P(MD)Nos.1 and 2 of 2011

K.Meenakshi

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Rep by the Secretary,
Department of Scheduled Castes and
Scheduled Tribes Welfare, Secretariat,
Chennai.

2.The District Collector,
Madurai District,
Madurai.

3.The District Scheduled Castes and
Scheduled Tribes Welfare Officer,
Collectorate, Madurai 20.

... Respondents

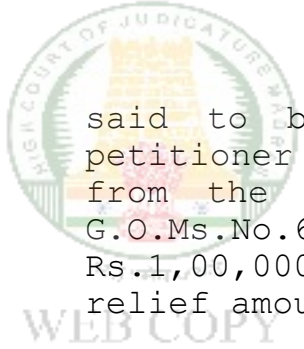
Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the Impugned Order in Na.Ka.No.130430/95/Aadhi6 dated 02.02.2007 on the file of the Respondent No.3 and quash the same as illegal and consequently directing the Respondents to provide the remaining relief amount of Rs.1 00 000/- to the petitioner as per the Rule. 12 (4) of the Schedules Castes and Scheduled Tribes (Prevention of Atrocities) Rules 1995.

For Petitioner : Mr. J.Ravichandran, for
Mr. T.Lajapathi Roy

For Respondents : Mr. T.R.Janarthanam,
Additional Government Pleader.

ORDER

The petitioner's son was murdered by caste Hindus on 05.05.1995. Subsequently, on an complaint registered in Crime No.413 of 1995 under the provisions of the Indian Penal Code as well as the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989, (for brevity, the Act) the accused were acquitted in S.C.No.232 of 1999 on 22.06.1999. As against the same, an appeal is



said to be pending before this Court. In the meantime, the petitioner was paid a sum of Rs.50,000/- towards her son's murder from the Chief Minister's Public Relief Fund on the basis of G.O.Ms.No.619, dated 19.06.1996, she had also received a sum of Rs.1,00,000/- in the year 1998 under the provisions of the Act as a relief amount.

2.It is the case of the petitioner that under the the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules 1989, (for brevity, the Rules), the sum paid by the respondents is not proportionate to what has been prescribed under the said Rules.

3.Learned Additional Government Pleader, on the other hand, submitted that as per the Annexure to Rule 12 (4) of the Rules and G.O.Ms.No.833, dated 22.05.1998, the compensation ordered therein depends on the conviction by an appropriate court. He would further submit that the order impugned in the present writ petition is only a communication between the Department and the Government Pleader's office and hence, challenge to the same is not maintainable.

4.I have considered the submissions made by the learned counsel on either side.

5.Rule 12(4) of the Rules, directs the District Magistrate or Executive Magistrate to provide for cash relief to the victims of atrocity or to the family members. Sub Rule (5) provides that such a relief shall be in addition to any other right to claim compensation in respect of any other law for the time being in force. The said Rules were amended time and again.

6.As submitted by the learned Additional Government Pleader, it is true that earlier the relief was extended to the victims on the basis of the conviction in the criminal case. Subsequently, the Rules came to be amended and the word 'conviction' was deleted. As such, the victim's compensation is not based on the result of the criminal case and the authorities are bound to make the compensation as prescribed in the schedule annexed to the said Rules. Earlier, compensation payable on the murder/death of a non earning member of the family was Rs.1 lakh and for an earning member of the family a sum of Rs.2 lakhs was prescribed. Subsequently, the amount was enhanced to Rs.2.5 lakhs and Rs.5 lakhs for the non earning member and earning member respectively. By a latest amendment dated 14.04.2016, the amount was increased to Rs.8,25,000/-. The relevant portion of the schedule reads as follows:

"45.Murder or Death : Eight lakh and twenty five thousand rupees to the victim.

Payment to be made as follows:

(i) 50 percent. after post mortem report;

(ii) 50 percent. when the charge sheet is sent to the Court."



7.Learned counsel for the petitioner submits that the petitioner's son was earning member of the family and as such, she is entitled for compensation of Rs.8,25,000/- as per the amended Rules.

8.Apparently, the Additional Government Pleader's submission that the petitioner shall be entitled for compensation only if the criminal case ends in conviction is incorrect in view of the subsequent amendments wherein the word 'conviction' was deleted. Further, the respondents are not justified in relying upon their own Government Orders, when the Rules speak otherwise. The Government Order is only a subordinate legislation that cannot by pass the statutory Rules. The Rule as it stands today, prescribes compensation of a sum of Rs.8,25,000/-, to the victim, the petitioner is also entitled to.

9.It is further seen that the victims are also entitled for additional reliefs as provided under Sl.No.46 of Annexure to Rule 12 (4) of the Rules, like basic pension to the widow, admissible dearness allowance, employment to one member of the family of the deceased, provision of agricultural land and house, full cost of the education up to graduation level and maintenance of the children of the victims, provision of utensils and groceries for a period of three months.

10.Learned counsel appearing for the petitioner submits that in spite of these additional reliefs being prescribed under the Rules, the respondents have not extended the same to the petitioner.

11.With regard to the submission that the order impugned in the present writ petition is only a communication between the Department and the Government Pleader's office, on a perusal of the said order, it is seen that a copy has also been marked to the petitioner. Once a copy has been marked to the petitioner, it becomes an order informing the petitioner about the action taken and the observations made therein can be challenged. As such, the ground raised in this regard is liable to be rejected.

12.In the light of the observations made above, I am of the considered view that the petitioner is entitled for a compensation of Rs.8,25,000/- as prescribed under Rule 12(4) of the Rules along with additional reliefs as prescribed under Sl.Nos.45 and 46 of Annexure I to Rule 12(4) of the said Rules. Hence, the petitioner is granted liberty to make a fresh application seeking for the relief of compensation under the Rules to the second respondent and on receipt of the same, the second respondent shall consider the same in the light of the specific observations made in this order, with regard to the quantum and other reliefs the petitioner is entitled to and pass orders, within a period of twelve weeks from the date of receipt of a copy of this order.

13.With the above observation and direction, the writ



petition stands disposed of. No costs. Consequently, M.P(MD)Nos.1 and 2 of 2011 are closed.

Sd/-

Assistant Registrar(CO)

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/True Copy/

Sub Assistant Registrar

To

- 1.The Secretary,
Government of Tamil Nadu,
Department of Scheduled Castes and
Scheduled Tribes Welfare, Secretariat,
Chennai.
- 2.The District Collector,
Madurai District,
Madurai.
- 3.The District Scheduled Castes and
Scheduled Tribes Welfare Officer,
Collectorate, Madurai 20.

+1cc to Mr. T.Lajapathi Roy, Advocate in SR. No.1709
+1cc to M/S Special Government Pleader, Sr No. 1966

sms

MSK/MM/25.01.2017/4P-6C

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