

**THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO**

**Writ Petition No.46807 of 2016**

**ORDER :**

The petitioners herein belong to the Schedule Caste community. The husband of the 1<sup>st</sup> petitioner and father of petitioner nos.2 and 3 by name Sri N. Rangaraju was murdered on 18.11.2013 by persons other than those belonging to Scheduled Castes and Scheduled Tribes and also by members belonging to the Scheduled Caste community.

2. A crime was registered under Section 120B, 144, 148, 341, 342, 307 and 302 read with Section 149 and 109 of I.P.C., and Sections 3(1)(iv), (v) and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, 'the Act'). Thereafter, charge sheet has also been filed.

3. G.O.Ms.No.22 Social Welfare (P.O.D.) Department dt.16.06.2012 had been issued by the State Government for providing relief and rehabilitation under the said Act and the Rules framed thereunder. The said G.O. provided that victims of murder would get, in addition to the relief amount paid under the said G.O., either pension at the rate of Rs.3,000/- per month to the widow or other dependants of the deceased Scheduled Caste person or employment to one member of the family of the deceased, or provision of agricultural land and house, if necessary, by outright purchase.

4. Claiming the above benefit under the Act, petitioners filed application on 01.09.2014 before the District Collector, West Godavari (2<sup>nd</sup> respondent),

seeking such additional relief apart from Rs.3,75,000/- paid to the petitioners.

5. The 2<sup>nd</sup> respondent then sought a report from the Tahsildar, Bhimadole, who in turn submitted a report dt.03.12.2014 to the 2<sup>nd</sup> respondent that petitioners are the family members of the deceased, and that the 2<sup>nd</sup> petitioner is unemployed.

6. Though benefits under G.O.Ms.No.22 are required to be provided within three months from the date of atrocity, the 2<sup>nd</sup> respondent by proceedings dt.05.02.2015 directed the Joint Director, Social Welfare to examine the application of the petitioners and provide employment to the 2<sup>nd</sup> petitioner on the basis of his educational qualifications only.

7. The petitioners contend that the 2<sup>nd</sup> respondent cannot delegate his power to the Joint Director and it is he, who has to effectively implement the provisions of the Act, and provide additional reliefs sought for by the petitioners as per G.O.Ms.No.22 dt.16.06.2013. They therefore contend that the 2<sup>nd</sup> respondent has to provide widow pension to the 1<sup>st</sup> petitioner, employment to 3<sup>rd</sup> petitioner as per the said G.O., and that the respondents had thus acted in contravention of the provisions of the Act and the Rules framed thereunder.

8. The counsel for petitioners reiterated the above contentions and also pointed out that the State Government had issued G.O.Ms.No.95 Social Welfare (CV.POA) Department dt.29.08.2016 not only enhancing the quantum of compensation to Rs.8,25,000/-, but specifically granting additional relief of pension to the widow and the dependents of the deceased

to the tune of Rs.5,000/- per month with admissible Dearness Allowance **and** employment to one member of the family of the deceased and provision of agricultural land and house if necessary by outright purchase. He further contended that since the respondents have not granted any additional relief as per G.O.Ms.No.22 dt.16.06.2012 and since the said G.O. has now been superseded by G.O.Ms.No.95 dt.29.08.2016, the petitioners are therefore entitled to relief under this later Government order.

9. The 2<sup>nd</sup> respondent filed a counter-affidavit placing reliance on G.O.Ms.No.22 dt.16.06.2012 and contending that the said G.O. was in force at the time when the 1<sup>st</sup> petitioner's husband died. He stated that Rs.3,75,000/- had already been paid to the 1<sup>st</sup> petitioner; that the 3<sup>rd</sup> petitioner, who is the son of the deceased, had sought employment as he had passed B.Sc. Degree; that the 3<sup>rd</sup> respondent was requested on 05.02.2015 to examine the application of the 3<sup>rd</sup> petitioner and take action for providing employment basing on the educational qualification and report compliance. He also stated that the Tahsildar, Bhimadole submitted a report stating that no vacant agricultural land and house site was available for assignment to the family of the deceased, and proposed grant of pension at the rate of Rs.3,000/- per month to the 1<sup>st</sup> petitioner only. He stated that therefore on 27.12.2015 the 2<sup>nd</sup> respondent had issued orders providing for sanction of pension only within (30) days; that the Tahsildar, Bhimadole later gave a report on 09.08.2016 stating that no Government land is available to provide house site or agricultural land to the family of the deceased, and either job or pension may be sanctioned as per G.O.Ms.No.22. He stated that the petitioners are not willing to take pension and they only

seek employment and they are not entitled to the same since only G.O.Ms.No.22 is applicable to them and not G.O.Ms.No.95 dt.29.08.2016. He stated that petitioners cannot claim any employment under G.O.Ms.No.22 which was in force as on the date of commission of the offence, i.e., on 18.11.2013 and that this G.O. mentions that either employment or pension may be given, but not both.

**10.** The learned Government Pleader for Social Welfare, appearing for respondents, reiterated the above submissions.

**11.** I have noted the submissions of both sides.

**12.** It is undoubtedly true that as on the date of the incident when the husband of 1<sup>st</sup> petitioner was murdered, only G.O.Ms.No.22 dt.16.06.2012 was in force. G.O.Ms.No.22 dt.16.06.2012 provided for monetary compensation and in addition *either* pension to the widow or dependents of the deceased at the rate of Rs.3,000/- per month *or* employment to one member of the family of the deceased *or* provision of agricultural land and house site if necessary by outright purchase. Admittedly, the monetary relief of Rs.3,75,000/- was paid to the 1<sup>st</sup> petitioner through a Demand Draft dt.20.11.2013.

**13.** It was only thereafter that G.O.Ms.No.95 dt.29.08.2016 came into force replacing G.O.Ms.No.22 dt.16.06.2012. The G.O.Ms.No.95 dt.29.08.2016 thus superseded G.O.Ms.No.22 dt.16.06.2012.

**14.** Since by 29.08.2016, the date when G.O.Ms.No.95 came into operation, neither pension was sanctioned to the widow nor was employment or allotment of house site / agricultural land was given to the petitioners, the

respondents cannot apply the Government order which is superseded and deny the benefits of G.O.Ms.No.95 dt.29.08.2016 which provides benefit of both pension *and* employment in addition to monetary relief.

**15.** The respondents are not correct in relying on the date of atrocity as the relevant date for application of the law relating to grant of compensation and provision for additional relief. If no pension was sanctioned to the 1<sup>st</sup> petitioner and no agricultural land or house site was given to the petitioners (one of which they were entitled to through G.O.Ms.No.22 dt.16.06.2012 by 29.08.2016), they would be entitled to the benefit under G.O.Ms.No.95 dt.29.08.2016, i.e., in addition to pension, they would also be entitled to employment to one of the family members of the deceased. The State cannot deny them the said benefit since it is its inaction which has deprived the family of the deceased of quick speedy relief. The State also cannot be allowed to take advantage of its own delay in sanctioning pension to 1<sup>st</sup> petitioner, and contend that petitioners should suffer and prevent them from taking benefit of G.O.Ms.No.95 dt.29.08.2016.

**16.** It is inexplicable that the 2<sup>nd</sup> respondent should refer the 3<sup>rd</sup> petitioner's application seeking employment to the 3<sup>rd</sup> respondent for consideration of the same when it was the 2<sup>nd</sup> respondent's responsibility as per G.O.Ms.No.22 dt.16.06.2012 to consider grant of employment to the 3<sup>rd</sup> petitioner.

**17.** Accordingly, the Writ Petition is allowed. The respondents are directed to provide employment to the 3<sup>rd</sup> petitioner in addition to pension which is payable to 1<sup>st</sup> petitioner in accordance with G.O.Ms.No.95

dt.29.08.2016 within a period of eight (08) weeks from the date of receipt of a copy of the order. No order as to costs.

**18.** As a sequel, miscellaneous applications pending if any in this Writ Petition, shall stand closed.

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**JUSTICE M.S.RAMACHANDRA RAO**

Date: 11-08-2017

Ndr/\*

