

CWP No.25029 of 2017

[1]

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP No.25029 of 2017
Date of decision:22.11.2017**

Harbhajan Singh and others ...Petitioners

Versus

Union of India and others ...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

**Present: Mr. P.S.Hundal, Senior Advocate, with
Mr. Dinesh Trehan, Advocate, for the petitioners.**

Rakesh Kumar Jain, J.

The petitioners have prayed for the issuance of a writ in the nature of *mandamus* for modifying the report dated 16.03.2015 submitted by the Chairman, Commission of Inquiry, constituted for looking into incidents of violence in November, 1984 at village Haud-Chillar, Tehsil and District Rewari, whereby ₹5 lac each has been awarded to the petitioners in respect of loss to their properties.

In brief, pursuant to the riots of 1984, the Government of Haryana, vide notification dated 05.03.2011, decided to appoint a Commission of Inquiry to inquire into the deaths, injuries and damage to the properties of the Sikhs in village Haud-Chillar in District Rewari, Haryana, exercising its powers under Section 3 of the Commission of Inquiry Act, 1952. The Commission was to make inquiry in respect to the following matters:-

- “(a) to the incidents of violence which targeted members of the Sikh Community living in village Haud-Chillar in November, 1984;
- (b) the sequence of the events leading to and all facts relating to such violence including facts relating to number of victims who died or were seriously injured due to the violence and damage to property;
- (c) to recommend measures, which may be adopted to meet the ends of justice connected with the incidents under inquiry; and
- (d) to consider such matters as may be found relevant in the course of the inquiry.

A retired Judge of the High Court was appointed as Chairman of the Commission of Inquiry, before whom as many as 80 claim petitions were filed, on the basis of which he prepared three tables of the claims in respect of the deaths, loss of properties and injury. The Commission submitted its report dated 16.03.2015 and concluded as under:-

- “125. (a). In view of the detailed discussion in paras 69 to 112 (pages 144 to 187) of this report, a sum of Rs.20.00 lakhs over and above the amount already paid has been recommended to be paid to the claimants qua each of 31 deaths detailed at serial No.1 to 31 in the Table given in Para 72 on pages 146 to 148 of this report while a sum of Rs.25.00 lakhs should be paid to the widow of lone army man Inderjit Singh shown at serial No.32 in the table given in para 72 on page 148 of this report. This is because as per evidence on record, she has not been paid any amount of compensation whatsoever till date on any earlier occasion by the Government.
- (b). As regards 36 claims qua loss of property, the description of which have been given in paras 85-86 (pages 157-158) of this report a detailed discussion has been made in paras 87 to 98-a (pages 158 to 170) of this report. Accordingly and as per the observations made therein, the Commission recommends that an amount of Rs.5.00 lakhs more qua the loss of property be paid over and above the amount of compensation already paid by the Government to each of 36 petitioners named in paras 85-86 (pages

157-158) of this report.

(c). Besides, as per discussions in paras 95-96 (pages 166 to 169) of this report in respect to the damage caused to the Gurudwara and the Janj Ghar in the village, as per discussions recorded in para-98(b) page-171 of this report, the Commission recommends that an amount of Rs.5.00 lakhs each for the Gurudwara and the Janj Ghar be also donated to any such religious structures in case raised at a place where the majority of the survivors of village Haud have now settled. This can well be inquired into by the authorities concerned and only after satisfying themselves about the rehabilitation of the majority of such survivors and the place, appropriate decision may be taken by the authorities in this regard.

(d). Further, as per discussions in paras 99 to 112 (pages-172 to 187) of this report in respect to the injuries caused to Smt. Malan Bai through Sarup Singh (petition No.35-HCC), Smt. Mahender Kaur (Petition No.79-HCC), Sunder Singh (Petition No.80-HCC), Sawan Singh (Petition No.7-HCC), Smt. Besar Bai (Petition No.11-HCC) and Satpal (disabled son) through his mother Smt. Ramesh Kumari (Petition No.37-HCC), the Commission recommends that an amount of Rs.1.00 lakhs be paid to each of the 5 petitioners; namely, Shri Sarup Singh on account of injuries to his wife Smt. Malan Bai, Smt. Mahender Kaur, Sunder Singh, Sawan Singh and Smt. Besar Bai named in para-99 above. However, as per above discussions, the Commission recommends that an amount of Rs.50.00 lakhs be paid as compensation to Satpal petitioner through his mother Ramesh Kumari (named in para 99 above) as his guardian in the manner detailed in para 112 of this report above.”

In this case, the petitioners have prayed only for enhancement of amount of compensation from ₹5 lacs and for payment of interest from the date when the loss was suffered.

Learned counsel for the petitioners has submitted that the Commission itself had found that the award of ₹1 lac for the loss of property is

inadequate but at the same time, the award of ₹5 lacs is also not justified because the value of the property was much more at that time. It is also submitted that at least the petitioners should have been awarded interest on the amount of compensation because the loss was suffered in the year 1984, whereas the award has been given in 2015.

I have heard learned counsel for the petitioners and examined the available record.

In this case, there were 32 cases of death, 6 cases of injury and 36 cases of loss to the property. The Commission had not only paid personal visits but also decided the amount of compensation after framing relevant issues on the pleadings and taking into consideration the evidence led by the parties. No doubt that the Commission was of the opinion that the amount of ₹1 lac for the loss of property was not adequate but at the same time, it was also observed that there was no evidence led by the claimants, on the basis of which compensation could have been assessed. The Commission has, thus, took the judicial notice and awarded ₹5 lacs across the board to all the claimants as the amount of compensation paid in 36 cases was ranging between ₹11,250/- to ₹1 lac.

Thus, in my considered opinion, the amount to be awarded on the basis of guess work cannot be stretched for the purpose of enhancement as for determining the actual loss, the Court has to fall back upon the evidence available on record which is conspicuous by its absence in this matter.

Insofar as the issue of awarding interest is concerned, the Commission has not awarded interest in any matter whether it pertains to the cases of death or injury. The compensation that has been awarded to the

petitioners in respect of the loss of property appears to be just and adequate in the given facts and circumstances.

Consequently, the report of the Commission does not call for any interference for the purpose of further enhancement of compensation and hence, the present petition is hereby dismissed in limine.

November 22, 2017
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(Rakesh Kumar Jain)
Judge

Whether speaking / reasoned:	Yes/No
Whether Reportable:	Yes/No