

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CWP 6658 of 2014

Date of Decision: January 10, 2017

Sheela Kaur

.....Petitioner

Vs.

UOI and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI.

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Present:- Mr. P.P.S. Tung, Advocate
for the petitioner.

Mr. Vikrant Pamboo, Advocate for respondent No.1.

Ms. Anu Pal, AAG, Punjab.

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M.M.S. BEDI, J.

The petitioner has invoked the writ jurisdiction of this Court under Article 226 of the Constitution of India seeking a writ in the nature of Mandamus directing the respondents to monitor and get the relief money disbursed as per the Rehabilitation Package sanctioned for providing relief to the victims of 1984 riots by Government of India dated January 16, 2006, annexure P-1 and for issuance of appropriate direction for reimbursement of

the amount and submit the utilization certificate after reimbursing the amount to the petitioner.

The petitioner claims that she had lost her husband, namely, Tirlok Singh, while travelling in Moradabad Mail passing between Palam and Bijwasan station by members of unlawful assembly who indulged in rioting on November 1, 1984. The grievance of the petitioner is that the Central Government had approved a Rehabilitation Package to provide additional relief to the victims of 1984 riots with financial outlay of Rs.714.76 crores for different State Governments i.e. Uttar Pradesh, Madhya Pradesh, Chhatisgarh, Haryana, Bihar, Jharkhand, J&K, Himachal Pradesh, Orissa, Maharashtra, Uttarakhand, Punjab and NCT of Delhi. A direction had been issued vide letter dated March 16, 2006 , annexure P-2 clarifying that disbursement of ex-gratia on account of death, injury and loss suffered due to damage to residential and uninsured commercial/ industrial properties will be made by the State Government concerned where the incident had taken place. However, all the State Governments of above said States were called to take action. As per the averments in the petition, Tirlok Singh had gone to Delhi in train on October 31, 1984 in Punjab Mail for personal work at Alwar but on account of riots, the mob had burnt alive her husband and he died on the spot as dead body was found burnt in the said riots regarding which an FIR No. 483 was registered on November 1, 1984, regarding which the petitioner had received information. Copy of the FIR has been appended with the petition as annexure P-3. The bhog ceremony of Tirlok

Singh was fixed on January 27, 1986 at the residence of the petitioner in Bhatinda. The petitioner had got registered her grievance with Secretary, Siromani Gurudwara Prabandhak Committee, Sri Amritsar Sahib regarding which she had received a letter annexure P-5. In response to the advertisement in the newspapers inviting claims on behalf of the victims as prescribed in the Package which was submitted by the petitioner, the petitioner though fulfilled all the formalities and complied with all the directions but was not granted any claim by the State Government till date. Petitioner pleads that Punjab Government has paid a sum of Rs.2 lacs to various families who were settled in Punjab, as per the letter dated January 16, 2006 but the petitioner did not receive any claim till date. She, however, wrote a letter to the Secretary to Government of Punjab, Department of Revenue, Rehabilitation and Disaster Management, Chandigarh, annexure P-6, requesting for the grant of ex-gratia compensation. The mother-in-law of the petitioner had also submitted a letter to the Prime Minister of India on March 31, 2010, annexure P-7. The petitioner received a letter from Ministry of Home Affairs informing her that the victims had to file their claims to the concerned district authorities under the State Government where the incident had taken place and the concerned State Government was required to make payment to eligible claimants as per letter dated July 8, 2010, annexure P-8. The mother-in-law of the petitioner and the petitioner had submitted their claims with the concerned authorities of the Punjab Government vide annexures P-9 and P-10 but the mother-in-law of the

petitioner died as such it is the petitioner who has been pursuing the claim. She had approached the Deputy Commissioner, Bathinda with a fresh representation dated November 5, 2013 but no action has been taken by the concerned authorities till date. Copy of the representation dated November 5, 2013 is also appended with the petition as annexure P-11.

The claim of the petitioner has been contested by the respondents by filing written statement on behalf of respondents No.2 and 3. It is pleaded that the mother-in-law of the petitioner had filed a writ petition for claim in which direction had been issued in terms of direction dated July 24, 2013 by this Court in CWP No. 3070 of 2011 and vide order dated September 6, 2013 passed in CWP No. 7921 of 2011, annexure R-2. In view of the orders passed vide Annexures R-1 and R-2, the respondents claimed that earlier petition having already been disposed of, the present writ petition is barred by principle of res judicata. Filing of any claim with respondent No.3-Deputy Commissioner, Bathinda has been denied. It is admitted on behalf of Union of India that instructions regarding Rehabilitation Package had been finalized vide annexure P-1. A Committee had been constituted to scrutinize and verify the claims of the victims of 1984 riots which migrated to Punjab from other riot affected States and are still living in Punjab and to make recommendations for payment of Rehabilitation grant at the rate of Rs.2 lacs per family. Vide order dated February 10, 2006, annexure R-4, sub-committees at District Level were constituted for the verification of the claims of the families of the victims of

1984 riots in Punjab and to make recommendations to the Committee constituted under the chairmanship of Financial Commissioner (Revenue) for payment of grant of Rs.2 lacs per family. It is claimed by the respondents that general information was issued by Director Disaster Management, Punjab, on February 10, 2006, annexure R-5, requiring the riot victims who had migrated from other States to Punjab and settled in Punjab, to submit their claims for Rehabilitation grant. All claimants were supposed to submit their claims to their respective Deputy Commissioners along with Read Card duly attested by Notary; proof of residence in the form of ration card, voter's identity card or copy of water/ electricity bill. All the claims were to be submitted before March 22, 2006. Respondents submit that in response to the general information dated February 10, 2006, no application/ representation of any claim was ever submitted by the petitioner in the office of respondent No.3 as such it was claimed that she had no locus standi to file the present writ petition. The grant of claim has been opposed mainly on the ground that the husband of the petitioner had died in Delhi and clarification had been issued by the Government of India vide letter dated March 8, 2006 clarifying that the disbursement of the ex-gratia on account of death, injury and loss suffered due to residential and uninsured commercial/ industrial properties will be made by the State Government concerned where the incident had taken place. It is pleaded that the petitioner could claim from Delhi Government and not from the State of Punjab.

The Union of India has filed a separate reply admitting the existence of the policy. It is clarified that as per the Rehabilitation policy claim of the petitioner had to be decided by the State Government or the specifically constituted Committee by the State Government and in the present case, the claim of the petitioner is to be decided by respondent No.3. Counsel for Union of India has contended that as per the Rehabilitation Policy, the claim of the petitioner is to be decided by the State Government or specifically constituted Committee by the State Government and in the present case the claim of the petitioner is to be decided by respondent No.3. The facts regarding unnatural death of the husband of the petitioner has not been denied but dismissal of the petition has been sought for only on the ground that the claim of the petitioner is to be decided by respondent No.3, the Deputy Commissioner, Bathinda, Punjab. The maintainability of the petition has been questioned on the ground that in writ petition titled Sikh Danga Peerit Welfare Committee (Punjab) Vs. State of Punjab and others- CWP No. 3070 of 2011, a Division Bench of this Court had decided that any person aggrieved by the riots may file petition under Section 226 of the Constitution of India and that earnest endeavour should be made by the Committees to proceed expeditiously for redressal of those grievances by holding periodic sitting so that the matter could be brought to an end as early as possible preferably within a period of one year. Copy of the order of this Court dated July 24, 2013 has been placed on record as annexure R-1.

No plausible reason has been given by the respondents in not finalizing the claim of the petitioner despite earlier directions having been issued by this Court in CWP No. 3070 of 2011, decided on July 24, 2013. When a scheme is floated for the benefit of the victims of a particular incident, the implementation of the same is the obligation of the concerned Government.

In the present case, the Central Government has floated a scheme sanctioning Rehabilitation Package to provide relief to the victims of the 1984 riots which is a meager sum of Rs.2 lacs. The letter dated January 16, 2006 clearly envisages that ex-gratia amount of Rs.3.5 lacs would be paid in each case of death during riots. This amount would be in addition to the amount already paid by the respective State Governments. It is not disputed that the claim is to be verified and scrutinized by the local administration of the State Government by sub-Committee which would consider and verify and scrutinize the claims and give recommendation regarding acceptance or rejection of the claim. Para 3 of the Rehabilitation Package reads as follows:-

“3. The Governments of Uttar Pradesh, Madhya Pradesh, Chhatisgarh, Haryana, Bihar, Jharkhand, J & K, Himachal Pradesh, Orissa, Maharashtra, Uttaranchal, Punjab & NCT of Delhi are requested to take immediate necessary steps to grant ex-gratia and other assistance to the victims of 1984 riots as per the following guidelines:-

- i) The State Governments will, immediately on receipt of this letter, issue a notice for inviting claims from the riot victims for payment of ex-gratia in case of death/ injury and compensation for damage to residential/ commercial/ industrial properties;
- ii) Each State Government will publicize the particulars of officers authorized to receive claims from riot victims. They will also nominate a senior officer as “Liaison Officer” for this purpose. His/ her particulars will be communicated to the Ministry of Home Affairs;
- iii) All the claims will be duly verified/ scrutinized by local administration/ agency of State Governments;
- iv) Each State Government will constitute a Committee, which will consider the verified/ scrutinized claims and given recommendation whether the claim should be accepted for payment or rejected.
- v) Based on the recommendations of the Committee, the State Governments will initially make disbursement of the amount from their own budget;
- vi) After making disbursement, the State Governments will calculate the total expenditure incurred on payment of ex-gratia / compensation and seek reimbursement from the Ministry of Home Affairs;

- vii) All payments to the riot victims will be made through “account payee cheques” only. In case a beneficiary does not have a bank account, the State Government will arrange a bank account to be opened in his/ her name before the payment is made.
- viii) The State Government would review the procedures prescribed for verification/ scrutiny of claims to make it simple and less cumbersome to avoid delay and harassment to the riot victims;
- ix) In cases where the claims are supported by proof of having received the amount of compensation paid by the State Governments earlier, that may be considered as adequate and no additional proof may be required. It would be ensured that the claims are not rejected on technical/flimsy grounds."

Direction was given to the State Governments for disbursement of the amount by the State Governments to the riots victims by March 31, 2006. A direction had been issued by Division Bench of this Court in CWP No. 3070 of 2011, annexure R-1 that Committee constituted by the State could make an endeavour to proceed expeditiously for redressal of these grievances by holding periodic sitting so that the matter can be brought to an end as early as possible preferably within a period of one year.

Taking into consideration the totality of the circumstances, it is a case of real hardship to the petitioner for having not been granted the requisite compensation as per the instructions Annexure R-1.

The petition is allowed and a direction is issued to respondent No.3 to ensure that the claim of the petitioner is considered by the concerned Committee after all necessary formalities and as per instructions annexure R-1 and the recommendations for payment is considered and accepted and the payment is made to the petitioner within a period of one month after the receipt of certified copy of the order. A direction is also issued to respondent No.1 that on receipt of the recommendations, the amount will be released along with interest at the rate of 6% w.e.f. April 2006, the date which was scheduled for submission of the demand by State Government to the Central Government for reimbursement of the amount. In case the amount is not disbursed as per the policy annexure P-1 equal to Annexure R-1, the amount of interest will be 12% w.e.f. the above said date.

January 10, 2017
sanjay

(M.M.S.BEDI)
JUDGE

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