

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10835 of 2017

Manish Kumar, Singh son of Latae Vijay Kumar Singh, Resident of Village-
Barwa Purvi, P.O. and P.S.- Lakhaura, District- East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The District Magistrate, East Champaran, Motihari.
3. The Additional Collector, East Champaran, Motihari.
4. The Nodal Officer, District Disaster Management Section, East Champaran, Motihari.
5. The Sub-Divisional Officer, Sadar, East Champaran, Motihari.
6. The Circle Officer, Motihari, East Champaran.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Pravin Kumar, Adv.
For the Respondent/s : Mr. Rishi Raj Sinha, SC-19

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 27-09-2018

Heard learned Counsels for the petitioner and the
respondent-State.

The present writ application has been filed for a direction to the respondent authorities to pass appropriate order in favour of the petitioner for payment of compensation under the scheme of Disaster Management since the grand-father of the petitioner, namely, late Ram Sagar Singh died on 29.04.2015 due to tremor (earthquake), leading to registration of U.D. Case No.03/2015.

It is submitted by learned counsel for the petitioner that the grand-father of the petitioner died on 29.04.2011 due to tremor, for which U.D. Case No. 03 of 2015 was registered. The post-mortem was conducted on the same day i.e. 29.04.201. The



post-mortem report reflects no external injury and the cause of death is sudden cardiac arrest. After death of his grand-father, the petitioner obtained his death certificate on 30.04.2015 from the Panchayat Secretary, Gram Panchayat Raj Barwa, Motihari, East Champaran, as contained in Annexure-2. Thereafter, the petitioner submitted an application for grant of compensation against death of his grand-father due to tremor, before the office of the Disaster Management as well as before the Respondent No.6, the Circle Officer, Motihari, as contained in Annexure-3. On the application submitted by the petitioner, the Circle Officer, Motihari conducted an enquiry and submitted a report vide Letter No.1787, dated 19.12.2015 to the Respondent No.5, the Sub-Divisional Officer, Sadar, East Champaran to the effect that at the time of tremor the grand-father of the petitioner fell down and died. Subsequently, the Respondent No.5 intimated the matter to Respondent No.4, the Nodal Officer, District Disaster Management Section, East Champaran, vide letter No.581, dated 22.12.2015, stipulating therein that grand-father of the petitioner died due to tremor on 29.04.2015, which gets reflected from Annexure-5, whereupon, the Respondent No.5, vide order dated 03.08.2016 recommended for rejection of the claim of the petitioner to the District Magistrate, Motihari, after



considering the post-mortem report of late grand-father of the petitioner and the enquiry report of the Sub-Divisional Officer. But till date the petitioner has not been compensated against the death of his grand-father due to tremor. Hence, the present writ application.

It is submitted by Mr. Rishi Raj Sinha, learned SC-19 that after thorough enquiry it was found that the grand-father of the petitioner died on 29.04.2015, while the post-mortem reflected no external injury on his body and the cause of death was suggested to be sudden cardiac arrest, whereas, the tremor occurred on 26.04.2015. There is no proof with regard to any tremor having taken place on 29.04.2015, hence, the claim of the petitioner has been rejected.

Considering the rival submissions of the parties, the Disaster Management Act, 2005 (hereinafter referred to as 'the Act') was brought into existence with an object to enact a law on disaster management to provide for requisite institutional mechanisms for drawing up and monitoring the implementation of the disaster management plans, ensuring measures by various wings of Government for prevention and mitigating effects of disasters and for undertaking a holistic, coordinated and prompt response to any disaster situation.



Section 12 of the Act stipulates the guidelines for minimum standards of relief, which reads as under :-

“12. Guidelines for minimum standards of relief. - the national Authority shall recommend guidelines for the minimum standards of relief to be provided to persons affected by disaster, which shall include,-

(i) the minimum requirements to be provided in the relief camps in relation to shelter, food, drinking water, medical cover and sanitation;

(ii) the special provisions to be made for widows and orphans;

(iii) ex gratia assistance on account of loss of life as also assistance on account of damage to houses and for restoration of means of livelihood;

(iv) such other relief as may be necessary.”

The whole scheme stipulates that the ex gratia is being paid when the death occurs due to disaster. The word ‘disaster’ has been defined under Section 2 (d) of the Act, which reads as under :-

“(d) “disaster” means a catastrophe, mishap, calamity or grave occurrence in any area, arising from natural or man made causes, or by accident or negligence which results in substantial loss of life or human suffering or damage to, and destruction of, property, or damage to, or degradation of, environment, and is of such a nature or magnitude as to be beyond the coping capacity of the community of the affected area;”



There is nothing on record to suggest that the grand-father of the petitioner died due to disaster as the tremor occurred on 26.04.2015, when the grand-father of the petitioner died without having any injury on 29.04.2015. There is also nothing on record to suggest that the grand-father of the petitioner was admitted at any hospital for medical assistance for the injury or shock being caused by him. Moreover, considering all these aspects, the Nodal Officer, Disaster Management recommended the case of the father of the petitioner for non-payment of the compensation which was approved by the Additional Collector, East Champaran Motihari on 03.08.2016 and the said order though has been brought on record, but has not been challenged.

In view of the discussions made above, this Court finds no merit in the writ application.

Accordingly, the writ application stands dismissed.

(Dinesh Kumar Singh, J)

Ashwini/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

