

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

CWP No.2763 of 2018

Date of Decision: 25.04.2018

Zile Singh and others

....Petitioner

Versus

State of Haryana and others

....Respondents

BEFORE :- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Mr. Vivek Khatri, Advocate
for the petitioners.

DAYA CHAUDHARY, J.

The prayer in the present petition is for issuance of a writ in the nature of *mandamus* directing the respondents to release the monetary relief to the petitioners under Rule 12(4) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Rules, 1995 (here-in-after referred to as the `Rules, 1995).

A further prayer has also been made for quashing the action/inaction of the respondent authorities in not granting the amount of compensation/monetary relief as per provisions of Rule 12(4) of the Rules, 1995.

As per case of the petitioners, they are stated to be the residents of Village Mangali Jhara, Tehsil and District Hisar and they belong to Chamar Community. The land measuring 02 acres in the said village was

allotted to said community for burial of dead bodies of the children and the same was being used by them since the time of their forefathers. On 29.10.2016, when some persons of said community went for burial of dead body of newly born baby of Sandeep son of Santosh then Phool Singh son of Sheo Raj, caste Bishnoi, resident of the same village, did not allow the persons of that community to bury the dead body. Due to this, the dead body was buried at a distance of 03 kilometres away from the village. An application was moved to the respondent authorities but no action was taken. Again on 25.01.2017, some persons of said community went to bury the dead body of daughter of Sattyawan son of Giani Ram but they were not allowed to bury the dead body. The forcible possession has been taken over that land. Thereafter, FIR No.163 dated 23.02.2017 was registered under Sections 297 and 447 of IPC. Investigation of the case was conducted and the final report under Section 173 CR.P.C was submitted before the trial Court.

An application was moved by petitioners No.1 and 10 before respondent No.4 on 31.05.2017 for releasing of monetary relief under Rule 12(4) of the Rules, 1995 but no relief was granted to them.

Learned counsel for the petitioners submits that as per provisions of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (here-in-after referred to as 'the Act'), the petitioners are entitled for compensation but still their claim has not been considered and no compensation has been paid to them. Learned counsel also submits that the petitioners are entitled for monetary relief as provided under Rule 12(4) of Rules, 1995. It is not only a case of physical, mental, psychological, emotional or monetary harm but result of commission of any

offence under this Act and the petitioners are entitled for compensation.

Heard arguments of learned counsel for the petitioners and have also perused the documents available on the file.

The 'victim' has been defined under Section 2(ec) of the Act, 1989, which is reproduced as under :-

“2. Definitions.-

XX XX XX XX

(ec) - 'victim' means any individual who falls within the definition of the Scheduled Castes and Scheduled Tribes under clause © of sub-section (1) of Section 2 and who has suffered or experienced physical, mental, psychological, emotional or monetary harm or harm to his property as a result of the commission of any offence under this Act and includes his relatives, legal guardian and legal heirs.”

Section 2(c) of the Act is also relevant and is reproduced as under :-

“(c) Scheduled Castes and Scheduled Tribes shall have the meanings assigned to them respectively under clause (24) and clause (25) of Article 366 of the Constitution.”

Clauses 24 and 25 of Article 366 of the Constitution of India are also relevant, which are reproduced as under :-

“366. Definitions.- *In this Constitution, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say -*

24. “Scheduled Castes” means such castes, races or tribes or parts of or groups within such castes, races or tribes as are deemed under Article 341 to be Scheduled Castes for the purposes of this Constitution;

25. "Scheduled Tribes" means such tribes or tribal communities or parts of or groups within such tribes or tribal communities as are deemed under Article 342 to be Scheduled Tribes for the purpose of this Constitution."

As per provisions of Section 2(ec) of the Act, the 'victim' means any individual who falls within the definition of the Scheduled Castes and Scheduled Tribes and had suffered or experienced physical, mental, psychological, emotional or monetary harm to his property as a result of the commission of any offence under this Act. It includes relatives, legal guardian and legal heirs.

The claim of the petitioners has been rejected on the ground that as per allegations in the FIR, Sandeep and Satyawar are victims of offence committed against them under Sections 297 and 447 IPC and Section 3 of the Act, 1989. Petitioners-Zile Singh and Sheo Chand are not the legal heirs or relatives of Sandeep and Satyawar and they are not entitled for any compensation. Petitioners are claiming compensation only on the ground that they belong to same village and community and were using the graveyard which was made for Scheduled Caste community. By considering the facts and circumstances as well as arguments raised by learned counsel for the petitioners, it has not been proved on record that the petitioners (Zile Singh and Sheo Chand) are relatives of Sandeep and Satyawar or their legal heirs. Only those persons, who are included in the category of relatives, legal guardian/legal heirs are entitled for compensation. Simply being the villagers of that Village, they cannot be granted compensation. The claim of the petitioners has rightly been rejected and they have not been granted compensation.

It is also relevant to mention that a legal opinion was sought in this regard, wherein, it was clarified that only the victims, relatives, legal heirs and legal guardians of the victims are entitled for compensation. Only Sandeep and Satyawar are the victims not the petitioners.

Accordingly, the present petition, being devoid of any merit, is hereby dismissed.

25.04.2018
gurpreet

(DAYA CHAUDHARY)
JUDGE

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