

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21526 of 2019

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Shobha Devi, Wife of Late Awadhesh Choudhary, Resident of Village - Sakari Bazar, Takipur, P.S. Bhagwanpur Hat, District- Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary, Home, Govt. of Bihar, Patna.
3. The Principal Secretary, Home, Govt. of Bihar, Patna.
4. The Divisional Inspector General of Police, Saran at Chapra.
5. The Superintendent of Police, Siwan.
6. The Officer-in-Charge, Bhagwanpur Hat, Siwan.
7. Jagarnath Chaudhari, Son of Late Ram Chandra Chaudhari, Resident of Village - Sakari Bazar, Ward No. 1, P.S. Bhagwanpur, District- Siwan.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ajay Kumar Pandey
For the Respondent/s : Mr.Manish Kumar (Gp4)

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CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL JUDGMENT

Date : 12-12-2019

Heard the parties.

2. This writ petition, under Section 226 of the Constitution of India, has been filed for issuance of writ of mandamus to the respondents for giving benefits to the petitioner due to death of Awadhesh Choudhary during his service period as ASI in Bihar Police Service, as petitioner is the second wife of late Awadhesh Choudhary.

3. Learned counsel for the petitioner submits that Abdhesh Choudhary joined the service as Constable in Bihar Police Service in the year 1999 and he was promoted to the post of



Assistant Sub-Inspector (ASI) and at the time of murder, Awadhesh Choudhary was posted as Assistant Sub-Inspector, Buxar and he was deputed in election duty at Siwan but his dead body was found lying in the barren field and thereafter, Maharajganj P.S. Case No. 129 of 2019 was instituted on 08.05.2019 under Sections 302, 201 and 120(B)/34 of the Indian Penal Code on the basis of Fradbeyan of Jagarnath Choudahry, father of deceased, Awadhesh Choudhary, making suspicion having hand in the murder of his son by his family. Further submission is that before four years due to strain relation of deceased, Awadhesh Choudhary with his first wife, son and daughter, Awadhesh Choudhary performed the marriage with the petitioner and in course of investigation, Maharajganj P.S. Case No. 129 of 2019 regarding the murder of Awadhesh Choudhary, his first wife, son and daughter are already in custody, As such, petitioner being the second wife is entitled to take all benefits due to death of Awadhesh Choudhary and she is also entitled for compassionate appointment.

4. On going through the whole writ petition, it is apparent that petitioner has not disclosed the name of first wife, son and daughter of deceased, Awadhesh Choudhary. Annexure 2 is the photo copy of certificate issued by the Deputy Up-Mukhiya,



Gram Panchayat Raj Mirjumala, Bhagwanpur Hat, Siwan, dated 06.10.2018, which indicates that this petitioner was earlier married with Umesh Choudhary and leading 20 years family life with him but before four years, petitioner performed the marriage with deceased, Awadhesh Choudahry. It is not detailed in the certificate whether petitioner has performed the marriage with deceased, Awadhesh Choudhary after divorce of her first husband, Umesh Choudhary.

5. Admittedly, the first wife of children of deceased are alive, as such, during life time of first wife of the deceased, if the petitioner has performed the marriage, he will not come under the purview of legal heirs. As such, I find no merit in the writ petition and accordingly, the same stands dismissed.

(Rajendra Kumar Mishra, J)

Bhardwaj/-

AFR/NAFR	
CAV DATE	
Uploading Date	13.12.2019
Transmission Date	13.12.2019

