

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD**

WRIT PETITION NO.10238 OF 2016

Jijabai Ananda Palve

...PETITIONER

VS

State of Maharashtra & ors

...RESPONDENTS

Mr C.K. Shinde, Advocate for petitioner;
Mr P.S. Patil, A.G.P. for respondent Nos. 1 to 6;

**CORAM : S.V. GANGAPURWALA &
A.M. DHAVALA, JJ**

DATE : 9th January, 2019

PER COURT

The petitioner is a widow of Ananda Palve, who was working as a Head Constable then attached to Pachod Police Station. The petitioner is seeking *ex-gratia* compensation of Rs.10,00,000/- as per the scheme framed by the Election Commission of India.

2. Shri Shinde, learned Counsel for the petitioner submits that the husband of the petitioner was assigned the election duty under order dated 06.03.2014 and, as such, was on election duty from 06.04.2014.

3. On behalf of respondents, reliance is placed on letter dated 18.03.2014 issued by the A.P.I. Police Station, Pachod, which is annexed to additional affidavit in reply on behalf of respondent no. 3, specifically pointing out that in place of head constable Palve, deceased husband of petitioner, another head constable by name Mr Dabhade was included in the team which was assigned election duty.

4. It is claimed on behalf of petitioner that on 06.04.2014, while performing election duty, her husband met with an accident and succumbed to the same. As per the scheme of election commission, he is entitled for *ex-gratia* payment of Rs.10,00,000/- while on election duty.

5. Learned Counsel for the petitioner relies on the letter issued by Superintendent of Police (Rural), Aurangabad, to substantiate his contention that the duty of *nakabandi* which deceased husband of the petitioner was assigned was also part of the combing operation in the election process. He claims that the department has not disputed assignment of said duty to deceased husband of the petitioner, and has categorically accepted that it was a part of election duty. In view of that, it is erroneous on the part of respondents to say that husband of the petitioner was not performing election duty on the said day.

6. Mr Alok Sharma, learned Assistant Solicitor General for respondents no.2 and 3 submits that husband of the petitioner under order dated 6.3.2014 was asked to perform election duty, however, under the letter dated 18.3.2014, his duty was changed and he was to report to Police Station, Pachod and in his place Police Head Constable Dabhade was assigned with the election duty. The respondents have placed on record the document showing the allowance that was paid to the persons on election duty and the allowance is paid also to Mr Dabhade. He further submits that the statement of one Mr Mogarkar, Sectional Engineer, Minor Irrigation Department, Beed who was on election duty was recorded on 14-12-2018. In the statement, he claimed that In his unit, there were three persons including Mr Dabhade, however, Mr Palve was not in the said unit. As per the

order dated 6.3.2014, Mr Palve was supposed to be in Static Surveillance Team under Mr Mogarkar which would show that Mr Palve was not on election duty. The affidavit of the Superintendent of Police cannot be read in the manner as expected by petitioner so as to claim that her husband was on election duty. Assistant Police Inspector has also filed an affidavit, so also Naib Tahsildar specifically averring that Mr Dabhade was on election duty in place of deceased Ananda Palve.

7. We have also heard learned A.G.P.

8. There cannot be any dispute that if the deceased husband of the petitioner died while on election duty, the petitioner would be entitled for ex-gratia compensation of Rs.10 lakhs. It is a matter of record that deceased husband of petitioner was on election duty under order dated 6.3.2014 in Static Surveillance Team headed by Mr Mogarkar. A letter dated 16.3.2014 which is placed on record shows that in place of Mr Ananda Palve, Police Head constable Mr Dabhade was appointed for election duty in the team headed by Mr Mogarkar. Mr Mogarkar has also given a statement to the effect that in Static Surveillance Team headed by him, three persons were included, namely, Police Constable Dabhade, Police Constable Barde and Police Constable Gore. He has specifically stated that in place of Mr Palve, deceased husband of petitioner, Mr Dabhade had been appointed for the election duty and that Mr Palve had never performed duty in the Static Surveillance Team headed by him.

9. We have also gone through the affidavit filed on behalf of Collector, by Naib Tahsildar. It has been unequivocally stated in the

affidavit that on 6.4.2014, Ananda Palve was checking the vehicles at nakabandi point which was part of his regular duty and not of election duty and while discharging said duty he met with accident and succumbed to the same. It has been specifically stated that he was not on election duty when he met with the accident.

10. Considering the aforesaid aspects involved in the matter, it is not possible to accept the contention of the petitioner that her deceased husband was on election duty on the day he met with accident. In that view of the matter, no relief can be granted to petitioner.

11. Writ Petition is, therefore, dismissed. No costs.

(A.M. DHAVAL, J.)

(S.V. GANGAPURWALA, J.)

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