

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO. 1052 OF 2017

Balaji s/o Bhujang Khansole
age 53 years, occ. Agril.
R/o Wadniyamtullapur
Tq. Mudkhed, Dist. Nanded

Petitioner

Versus

1. The State of Maharashtra
Through its Principal Secretary
Revenue and Forest Department,
Mantralaya Mumbai 400 032.
2. The Regional Forest Officer
Nanded Region Nanded
Gandhi Chauk, Chikalwadi,
Nanded
Tq. & Dist. Nanded.
Respondents

Mr. V.B. Dhage, advocate for petitioner.
Mr. G.O. Wattamwar, AGP for respondents.

**CORAM : SUNIL P. DESHMUKH AND
S.M. GAVHANE, JJ.
DATE : 4th June, 2019.**

ORAL JUDGMENT : (PER SUNIL P. DESHMUKH, J.)

1. Rule. Rule made returnable forthwith and heard finally
with the consent of learned Counsel for petitioner and learned
Assistant Government Pleader for respondents.
2. Petitioner is invoking powers of this Court under Article

226 of the Constitution of India since he has been denied benefits under the Government Resolution dated 02.07.2010 for the reason that attack by wild animal on wife of petitioner has not been informed to concerned authority within the period of three days from the date of incident.

3. Relevant factual aspects are that on 24.10.2015, petitioner's wife, namely, Kisnabai Bhujang Khansole had been attacked and bitten by wild boar. After the incident, she had been admitted to Civil Hospital, Nanded and for further treatment, she had been subsequently shifted to other hospital. She remained hospitalised since 24.10.2015 till she succumbed to the attack and bite on 13.11.2015. After death of Kisnabai, statement of petitioner was recorded on 13.11.2015 which came to be registered as First Information Report. Hospital record depicts that petitioner's wife had been treated for attack and bite by wild animal. *Post Mortem* report annexed to the petition also corroborates said position. The *post mortem* report records that there is bite of wild animal and she had been treated and discharged by Dr. Shankarrao Chavan, Government Medical College & Hospital, Nanded and had been re-admitted to private hospital at Nanded where she died on 13.11.2015. The

Department of Forensic Medicine, Nanded has also issued final Death Certificate dated 17.11.2015 certifying that Smt.Kisnabai Balaji Khansole died of the cause consistent with rabies. Petitioner, in the circumstances, had applied for the benefit of aforesaid Government Resolution. The same had been declined under communication dated 30.11.2015 referring to that the attack ought to have been informed within three days from the date of incident and thus the petitioner is before us.

4. Learned Counsel for the petitioner submits that the Government Resolution is a benevolent assistance to persons suffering loss from attack of wild animals since wild animals are considered to be Government property. He submits that Kisnabai died of attack and bite of wild animal and there is sufficient record supporting the same, which has not been disputed at all. He submits that technical pleas are being taken about non submission of information within three days, referring to the impugned Government Resolution considering it to be a condition precedent. According to him, while this is a benevolent assistance being given by the State, denial of the same on technical grounds is pedantic. He submits that in practice, it is difficult for a common man to be aware of any such

benevolent assistance being made available and much less to be aware of the conditions thereunder. It is not disputed that petitioner comes from rural and backward area where literacy level of residents is minimal. He submits that when there is no dispute about that death of Kisnabai took place due to attack of wild animal, on such technicalities, denial of benevolent assistance is arbitrary and unsustainable.

5. Learned Counsel for the petitioner, in support of his submissions, refers to a decision of this Court (Nagpur Bench) in the case of *Baburao s/o Abaji Aglawe Vs. State of Maharashtra & others* (W.P.No.5764 of 2011) decided on 15.03.2012. He submits that the ratio in said judgment is, when wild animals are treated as Government property for all purposes, if a wild animal causes loss to an agriculturist or a citizen, it would be the responsibility of the appropriate Government to make good the loss. If this is the object of the scheme, pedantic approach would not subserve the purpose and the scheme would remain idle only on paper.

6. Learned Assistant Government Pleader submits that while the scheme requires submission of information within a

particular period, it is difficult for the authorities to go beyond the scheme and accept the claims which have been made after the stipulated period thereunder. Since the conditions are not fulfilled for grant of compensation, it would not be the case where it can be said that petitioner would be entitled to the same. He further submits that the inquest *panchanama* is not prepared by the officer, as referred to in the Government Resolution. Under these circumstances, it is difficult to accede to the request made by the petitioner.

7. From aforesaid submissions, it clearly emerges that there is no dispute about the incident having taken place and the cause of death being attack and bite by wild animal. The petitioner hails from rural area. Further, learned Counsel for the petitioner, during submissions, has referred to that after the incident, the petitioner was required to attend to his wife at hospital and in the circumstances, he could not move to give the information as required. These are the genuine circumstances which are not disputed. In the circumstances, taking hyper-technical approach, when the incident is not challenged, it appears that the benevolent purpose under the Government Resolution should not be obfuscated.

8. Having regard to the facts and circumstances involved in present case, the position referred to herein above and the philosophy and object underlying the scheme, we consider it appropriate to allow the petition.

9. Petition is, therefore, allowed directing the respondent-authorities to take steps to give benefit of the Government Resolution referred to, to the petitioner, as early as possible, preferably within a period of three months from the date of receipt of this order, without getting trammelled by the technicalities.

Rule is made absolute accordingly.

S.M. GAVHANE
JUDGE

SUNIL P. DESHMUKH
JUDGE

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