

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****WP No. 3913 of 2006**

- P. Narayana Swamy, Trade Unionist & Human Rights Activist, Member, Worker Representative Beedi Workers Welfare Fund A.P. State Advisory Committee Ministry of Labour & Employment Govt. of India, New Delhi-110001.

---- Petitioner

**Versus**

1. State of Chhattisgarh Through Secretary, Department of Home D.K.S. Bhawan, Raipur, Chhattisgarh.
2. Collector, Dantewada.
3. Director, General of Police, Raipur (C.G.).
4. Station House Officer Yerrabor, Kunta Block, Dantewada (C.G.).
5. Superintendent of Police, Dantewada, (C.G.).

---- Respondents

**With****WP No. 4703 of 2006**

- Dr. Pratap Agrawal, S/o Freedom Fighter Late B.N Agrawal; aged 63, Advocate, Jagdalpur 494001

---- Petitioner

**Versus**

1. Government of Chhattisgarh, Chief Secretary, Mantralaya, Raipur, 492001.
2. Director General of Police, Chhattisgarh State, Raipur,

---- Respondents

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| For Petitioner       | : Shri Vaibhav Kartikeya Agrawal, Advocate on behalf of Smt. Meena Shastri, Advocate appearing as Amicus Curiae. |
| For Respondent/State | : Shri Gagan Tiwari, Deputy Government Advocate.                                                                 |

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**Hon'ble Shri P. R. Ramachandra Menon, Chief Justice**  
**Hon'ble Shri Justice Parth Prateem Sahu, Judge**

**Order on Board**

**Per P. R. Ramachandra Menon, Chief Justice**

**20.05.2020**

1. This matter is pending before this Court for more than or nearly 14 years. It relates to the massacre of nearly 32 Tribal People of the State in the intervening night of 16<sup>th</sup> and 17<sup>th</sup> July, 2006.
2. Heard the learned counsel for the parties on both the sides and also the learned Amicus Curiae.
3. The factual matrix of the case reveals that there was a massacre of nearly 32 persons pursuant to the surprise attack by the Naxalites, intruding into the relief camp set up by the State where several tribal people were accommodated, despite the fact that the said camp was situated close to the Police Station, just 50 metres away. Serious lapses were alleged against the Police and the State in providing for protection to the Tribal people accommodated there.
4. The main prayer is to conduct a detailed enquiry against the erring police officers who were at fault, and if so, to identify and fix responsibility upon them. There is another prayer, that compensation be paid to the family who lost their bread earners by granting a sum of Rs. 5 Lacs for each case. It is seen from the proceedings that, an order passed on 29.01.2007, whereby a Committee was appointed consisting of a judge retired from this Court and such other members, so as to look into the various aspects pointed out. The specific term of reference is as given below:

“Whether there was failure on the part of the Police who were expected to give required protection or security to the people living in Errabor Camp on the

intervening night of 16<sup>th</sup> and 17<sup>th</sup> July, 2006, when the Naxalite committed massacre, and if it is so, then, who are the officers and subordinates responsible for the same.”

5. The proceedings further reveal that the said Committee came to be re-constituted as per the order passed by this Court on 12.03.2007. Since it was not revealed whether the enquiry was completed and report was submitted by the Committee or not, an order was passed by this Court on 24.07.2019 directing the Registry to verify the position and place the report of the Committee, if any, on record. The learned Advocate General and the learned Amicus Curiae were required to provide chronology of dates and events, so as to have the issue finalised at the earliest.
6. The matter came up for further consideration on 06.08.2019 when it was brought to the notice of this Court that the Committee had already submitted the report in a sealed cover, alongwith the relevant files and covering letter dated 05.07.2007, by Justice R.B. Dixit, former Judge of the High Court and the Chairman of the Errabor Enquiry Committee. The sealed cover was opened and perused the contents/report in the open Court. The report signed by the Chairman-Justice R.B. Dixit and the members by name Mr. N.K. Singh and Smt. Girija Shankar makes an exhaustive analysis with reference to the facts and figures. The conclusion is given at 'paragraph 67'. The finding reached by the Committee is that the Committee could not hold that although some sort of security lapses did take place at Errabor Camp, it was not a personal act of security lapses and Officer or subordinate can be held as liable for the same. In the said circumstance, a full text of the said report was caused to be served to the learned counsel representing the State and

other parties, as well as to the learned counsel Amicus Curiae. The learned Amicus Curiae submitted that only a sum of Rs. 1 Lac each was given to the family of the persons who lost lives and that further steps may be ordered with regard to the compensation and rehabilitation. In the said circumstance the Government was required to put forth their version which may require a “Policy Decision”.

7. The matter was listed for further consideration on 09.09.2019, when it was submitted from the part of the State that a New Scheme was evolved on 16.11.2015, whereby the quantum of compensation payable has been fixed as 'Rs. 5 Lacs' in respect of the loss of life and 'Rs. 2 Lacs' in respect of permanent disability. Whether the quantum of compensation paid in the instant case could be re-visited in the light of the 'New Scheme' was stated to be considered after placing the matter in the 'Cabinet', for which minimum time was sought for. We find it appropriate to extract the said order for easy reference:

“Mr. Gagan Tiwari, Deputy Government Advocate representing the State submits that with regard to the second limb of the issue involved i.e. with regard to the payment of compensation, a sum of Rs. 1 Lac (One Lac) has already been paid to the family of the victims who lost their lives in the firing which took place on the intervening night of 16<sup>th</sup>/17<sup>th</sup> July, 2006.

It is pointed out that a new scheme/policy has been evolved on 16-11-2015 whereby the quantum of compensation payable has been fixed as Rs. 5 Lac (Five Lac) in respect of loss of life and Rs. 2 Lac(Two Lac) in respect of permanent disability.

It is also stated across the bar that State is considering whether the quantum could be revisited in the light of the new scheme and that a decision will be taken accordingly after placing the matter in the cabinet for which minimum time is sought for.

In the said circumstance, we find it appropriate to grant 4 weeks' time. Instructions shall also be

obtained with regard to the rehabilitation steps, if any, as noted in the order dated 06/08/2019.

Post it after four weeks.”

Further time was sought for on 11.11.2019 on behalf of the Government, in view of the fact that the 'policy decision' by the Cabinet was necessary. The matter was adjourned by two weeks and later, by one more week, as per the order dated 11.11.2019.

8. Shri Gagan Tiwari, the learned counsel representing the State submits that a decision has been taken by the 'Deputy Secretary' to the Ministry of Home Affairs to the effect that the matter need not be re-visited.
9. The orders, if any, passed by the Dy. Secretary cannot be a 'policy decision' at all and the 'policy' has to be evolved and decision to be taken, by the Government in accordance with law. Since such course was proposed to be taken, as specifically recorded in the order dated 09.09.2019 and since no such 'policy decision' order has been taken so far, we find it appropriate to grant some more time to the Government to take a 'policy decision' as above and to disburse the benefit, if any, to the deserving persons. This shall be taken as expeditiously as possible, at any rate, within three months from the date of receipt of a copy of this judgment.
10. We record our appreciation on the earnest efforts taken by the learned Amicus Curiae in dealing with the matter.

The writ petition stands closed.

Sd/-

**(P. R. Ramachandra Menon)**  
Chief Justice

Sd/-

**(Parth Prateem Sahu)**  
Judge