

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 333 of 2020**

*{Arising out of order dated 26.05.2020 passed by the learned Single Judge in Writ
Petition (C) No. 88 of 2020}*

1. State of Chhattisgarh Through Secretary, Government of Chhattisgarh, General Administration Department, Mantralaya, Mahanadi Bhawan, Atal Nagar, Nava Raipur, Chhattisgarh-492002
2. Collector Bilaspur, Tehsil & District Bilaspur, Chhattisgarh.
3. Collector Janjgir-Champa, Tehsil & District Janjgir-Champa, Chhattisgarh

---- Appellants**Versus**

- Ramendra Prasad Rathore, S/o Late Shri Ramadheen Rathore, aged about 79 years, Occupation-Cultivation, R/o Village Portha, Tehsil Sakti, District Janjgir-Champa, Chhattisgarh.

---- Respondent

For Appellants/State	:	Shri S.C. Verma, Advocate General with Shri Jitendra Pali, Deputy Advocate General.
For Respondent	:	Shri R.S. Marhas, Advocate.

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

Per P. R. Ramachandra Menon, Chief Justice**24.08.2020**

1. Correctness of the common verdict passed by the learned Single Judge as per Annexure A/1 order dated 26.05.2020 in a batch of writ petitions with regard to the extension of benefits under the Loknayak Jaiprakash Narayan(MISA/D.I.R. Rajnaitik Ya Samajik Karno Se Nirudha Vyakti) Samman Nidhi Niyam, 2008 (for short, 'Rules of 2008') is the subject matter of challenge in this appeal.
2. The learned Advocate General points out that the Rules were framed in the year 2008 so as to extend the benefits to the persons who have undergone

detention under the Maintenance of Internal Security Act, 1971 or under the Defence of India Rules, 1971 during the Emergency period. Subsequently, on examining the correctness of the Rules and also as to the justification for continuing the same, it was noted by the State Government that it was in respect of a subject which was within the realm of the Central Government and further that the benefit given under said Rules was not correct or sustainable. In the said circumstance, necessary instructions were issued on 28.01.2019 to withhold further payments to the persons concerned and later, after taking appropriate steps, the Rules were repealed as per Annexure A/2 dated 23.01.2020. The stoppage of benefits was subjected to challenge by the recipients in different writ petitions.

3. The above matters were heard together and the correctness and sustainability of the proceedings was subjected to meticulous analysis. After detailed deliberation on the subject, the learned Single Judge held that the writ Petitioners had not challenged the Annexure A/2 dated 23.01.2020, whereby the Rules of 2008 were repealed and as such, the limited question to be considered was only with regard to the eligibility to have the benefits flowing from the date of stoppage in January 2019 till 23.01.2020. It was accordingly, that the matter was finalized by placing reliance on the various verdicts rendered by the Apex Court as discussed in paragraphs 22 to 26, holding that the writ Petitioners were entitled to have the benefits from the date of stoppage of the same in January 2019, till the Rules were repealed in January 2020; giving consequential direction to have the benefits for the said period to be released to the the writ Petitioners within 90 days. It is the correctness of the said verdict that is put to challenge in this appeal preferred by the State.
4. Shri S.C. Verma, the learned Advocate General submits that the learned Single Judge has not properly examined the correctness of the course and proceedings pursued by the Government, simultaneously adding that the

Government has already issued a clarificatory order by way of Annexure A/3 dated 29.07.2020, which a gazette publication, to the effect that the '2008 Rules' shall stand repealed from 'January 2019' itself. This aspect has not been omitted to be noted or analyzed by the learned Single Judge, and hence the grievance.

5. It is to be that the common verdict passed by the learned Single Judge on 26.05.2020. It was only after passing the verdict, that the Government issued Annexure A/3 order dated 29.07.2020. In the said circumstance, the said proceeding was never before the learned Single Judge who passed the common verdict on the basis of the undisputed facts brought on record, as on that date. In the said circumstance, we cannot conduct a scrutiny as to the correctness of judgment passed by the learned Single Judge with reference to Annexure A/3; as it is brought up for the first time in this appeal.
6. The learned Advocate General seeks for permission to withdraw the matter without prejudice to rights and liberties of the Government to bring out the position by way of appropriate proceedings before the learned Single Judge. Liberty is granted.
7. The appeal is dismissed as withdrawn.

Sd/-

(P. R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge