

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (C) No. 4790 of 2019

1. Bhim Sen Rathore S/o Prahlad Prasad Rathore Aged About 74 Years R/o Ward No. 12, Chitarpura, Janjgir, District Janjgir Champa, Chhattisgarh.
2. Rama Rathore S/o Gore Lal Rathore Aged About 69 Years R/o Ward No. 12, Purani Basti, Janjgir District Janjgir Champa, Chhattisgarh,

---Petitioner(s)

Versus

1. State of Chhattisgarh Through The Principal Secretary, Mantralaya, Mahanadi Bhawan, Atal Nagar Nawa Raipur, District Raipur, Chhattisgarh.
2. Secretary, General Administration Department, Mantralaya, Mahanadi Bhawan, Atal Nagar Nawa Raipur, District Raipur, Chhattisgarh.
3. Collector, Janjgir, District Janjgir Champa, Chhattisgarh.

---Respondents

For Petitioners	:	Shri Yogesh Chandra, Advocate.
For State	:	Ms. Sunita Jain, Govt. Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

07.01.2020

1. The challenge in the present writ petition is to the order Annexure P-1 dated 28.01.2019 whereby the respondents have held the benefits paid to the petitioners under Lok Nayak Jai Prakash Narayan (MISA/DIR Rajnaitik Ya Samajik Karano Se Nirudh Vyakti) Samman Nidhi, 2008 (in short "Samman Nidhi, 2008").
2. According to the petitioners, they had been subjected to detention during the emergency period from **26.07.1975 to 03.06.1976** and they were in custody in **Bilaspur** Jail. Pursuant to the aforesaid rule, the petitioners were getting monetary compensation which was initially at R.6,000/-, subsequently was enhanced to Rs.15,000/- and presently the amount is Rs.25,000/- per month. According to the petitioners, pursuant to Annexure P-1, the respondents have stopped releasing of the said monthly payment payable to the petitioners without there being any rhyme or reason and without there being any investigation or verification done on a benefit which the petitioners had been enjoying for the last more than a decade.

3. Given the aforesaid facts and circumstances of the case, this Court is of the opinion that from the contents of the writ petition it appears that there is no order as such passed holding that the petitioners are not entitled for the said benefit. The benefit which was granted to the petitioners were in terms of Samman Nidhi, 2008 as is reflected from Annexure P-3. Annexure P-3 clearly reflects the manner in which the investigation and the criteria which have to be looked into for deciding the entitlement part. The petitioners have been getting the benefit for almost a decade. It has to be presumed that there was some sort of inquiry at some stage conducted while granting the benefit to the petitioners. Now if at all there is any doubt in the minds of the respondents, the remedy available to the respondents was for subjecting the petitioners to scrutiny after calling upon the petitioners for due verification of their entitlement and thereafter to take an appropriate decision. The respondents could not have without there being a formal order stopped releasing of the said monetary benefits payable to the petitioners.
4. Under the circumstances, let the respondents 2 & 3 conduct an enquiry as is required under Samman Nidhi, 2008 and pass a formal order. Till a formal order is passed, the petitioners shall be entitled for continuity of the benefit that they were getting prior to the issuance of the impugned order dated 28.01.2019. The respondents are directed to forthwith release the monetary benefits to the petitioners including arrears of the unpaid part. The benefit shall be released to the petitioners till a final decision is taken by the respondents on an enquiry if they intend to conduct.
5. With the aforesaid observation, the writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge