

HIGH COURT OF CHHATTISGARH AT BILASPUR**WRIT PETITION (C) NO. 5 OF 2020**

- Shri Harish Lunia, S/o Dharmichand Lunia, aged about 62 years, R/o Mahamaya Ward No.6, Lohara Marg, Kawardha (CG) 491995

... Petitioner**versus**

1. State of Chhattisgarh, through the Principal Secretary, Mantralay, Mahanadi Bhawan, Atal Nagar, Raipur.
2. The Secretary General, Administrative Department, Mahanadi Bhawan, Atal Nagar, Raipur.
3. The Collector, District Kabirdham (CG)

... Respondents

For Petitioner	:	Mr. Alok Dubey, Advocate.
For Respondents	:	Mr. Somkant Verma, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****07/01/2020**

1. Challenge in the present writ petition is to the order dated 28.1.2019 (Annexure P-1) whereby the respondents have held the benefits paid to the petitioner 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 petitioner, he had been subjected to detention during the emergency period from 25.6.1975 to 31.3.1977 and he was in custody in Raipur Central Jail. Pursuant to the aforesaid rule, the petitioner was 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 petitioner, pursuant to Annexure P-1, the respondents have stopped releasing of the said monthly payment payable to the petitioner without there being any rhyme or reason and without there being any investigation or verification done on a benefit which the petitioner 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 petitioner is not entitled for the said benefit. The benefit which was granted to the petitioner was in terms of Samman Nidhi, 2008 as is reflected from Annexure P-2. Annexure P-2 clearly reflects the manner

in which the investigation and the criteria which have to be looked into for deciding the entitlement part. The petitioner has 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 petitioner. Now, if at all, if there is any doubt in the minds of the respondents, the remedy available to the respondents was for subjecting the petitioner to scrutiny after calling upon the petitioner for due verification of his 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 petitioner.

4. Under the circumstances, let the respondents no. 2 & 3 conduct an enquiry as is required under the Samman Nidhi, 2008 and pass a formal order. Till a formal order is passed, the petitioner shall be entitled for continuity of the benefit that he was getting prior to the issuance of the impugned order dated 28.1.2019. The respondents are directed to forthwith release the monetary benefits to the petitioner including arrears of the unpaid part. The benefit shall be released to the petitioner till a final decision is taken by the respondents on an enquiry if they intend to conduct.

5. With the aforesaid observations, the writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
JUDGE

/Sharad/