

**IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH**

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**CWP-11619-2017 (O&M)
Date of Decision: 23.02.2023**

HARWINDER SINGH

... Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Sushil Saini, Advocate
for the petitioner.

Ms. Niharika Sharma, AAG, Punjab.

VINOD S. BHARDWAJ, J. (ORAL)

The present petition has been filed for seeking issuance of a writ in the nature of Mandamus directing the respondents to grant compensation/pension to the petitioner, being the victim of acid attack, as per the notifications issued by the State of Punjab dated 08.12.2011 and 15.10.2013 and 17.06.2013 (Annexures P-6 to P-8) and for further directions to the respondents to reimburse the amount of medical treatment as well.

It has been averred by the learned counsel for the petitioner that the petitioner was attacked by Nirvair Singh son of Harjinder Singh, Pargat Singh son of Mota Singh and Bikramjit Singh son of Balwinder Singh on 26.02.2011 and in the aforesaid attack, they threw a jug full of acid on the face of the petitioner, due to which his face and other parts of the body were scarred. FIR No.14 dated 01.03.2011 was registered at Police Station Mehta, District Amritsar for the commission of offences punishable under Section 328 read with Section 34 of the Indian Penal Code, 1860 (later on Section 307 of Indian Penal Code, 1860 was added vide Rapat No.40 dated 13.03.2011). The

petitioner remained admitted at Sankara Nethralaya, Chennai, for his treatment. Despite best efforts by the doctors, the petitioner lost his complete eye sight to the extent of 100%. A certificate dated 13.06.2011 in this regard is duly issued by the Sankara Nethralaya, which is appended alongwith the present petition. It is averred that the petitioner lost his source of livelihood and also his eye sight as an outcome of the acid attack by the said respondents and that he was also entitled for grant of victim compensation as per the applicable policy(ies) of the State Government.

Written statement on behalf of respondents has been filed wherein the incident in question as well as the factum of permanent disability suffered by the petitioner has been duly acknowledged and has not been disputed. It is, however, averred that the State of Punjab had issued a notification dated 20.06.2017 as per which only a female is eligible for grant of compensation as a victim of acid attack. It is contended that District Administration had, however, sent the case of the petitioner to the Chairman of District Legal Services Authority, Amritsar for grant of compensation, however, as per the information sent by the District Social Security Officer, Gurdaspur, whereby it is informed that financial assistance is being given by the Department only to the female acid attack victims to an extent of a pensionary amount of Rs.8,000/- per month and no other amount is granted.

Counsel for the petitioner reiterated his arguments noticed above and claimed that he is entitled to compensation under the Scheme due to acid attack and there can be no discrimination. The petitioner having lost his complete vision in the incident, is in dire need of the benefits under the welfare scheme. The interpretation adopted and reasons given by the respondents are not born from a meaningful interpretation of the Scheme. The said Scheme is

gender neutral and that if the interpretation of the respondents is to be accepted, the same would run contrary to the object of the Victim Compensation Scheme and would also be discriminatory on the basis of gender.

Counsel for the respondent has reiterated the contentions noticed above and argued that since the scheme does not bring "male" victim in its ambit, the benefits under the Scheme document is inadmissible to the petitioner.

I have heard the learned counsel for the respective parties and have gone through the documents and record available on case file with their able assistance.

A Victim Compensation Scheme dated 08.12.2011 had been notified by the State of Punjab and as per the said Scheme the eligibility for grant of compensation was covered under Clause-4. Relevant clause thereof reads thus:

"4. Eligibility for Grant of Compensation:- The victim or his dependent satisfying the following criteria shall be eligible for the grant of compensation:-

- (1) He/She should not have been compensated for the loss or injury under any other scheme of the Central/Punjab Government, an Insurance Company or any other Institution;*
- (2) Loss or Injury sustained by the victim or his dependent should have caused substantial loss to the income of the family resulting difficulty in making both ends meet without the financial aid or has to spend beyond his means on medical treatment; and*
- (3) Where the perpetrator of a crime is not traced or identified or where no trial takes place but the victim is identified and the victim has to incur a lot of expenses on physical and mental rehabilitation."*

Further the definition of "Victim" has been duly prescribed under Section 2 (wa) of Cr.P.C. which reads thus:-

“Victim” means a person who has suffered any loss or injury caused by reasons of the act or omission for which the accused person has been charged and the expression “Victim” includes his or her guardian or legal heir.”

Hence, a victim means a 'person' who has suffered a loss and includes his or her guardians/legal heirs. The gender neutrality of the legislature is further supported by expanding the benefit to "his or her" guardian or legal heirs. Use of both expressions is a conscious act of the Legislature to include "persons", irrespective of their gender, within its ambit.

The aforesaid Scheme clearly shows that a victim or his/her dependent(s) were entitled for grant of compensation under the aforesaid Scheme. The aforesaid Scheme was non-discriminatory and did not classify that any of the benefits are restricted to female victims only. The amount of compensation has been revised vide the subsequent Notifications of 17.06.2013 and 15.10.2013. The Notification of 17.06.2013 only talks of compensation on account of permanent disfigurement of face to a maximum limit of Rs.3,00,000/-. Besides, a perusal of the letter (Annexure R-3) appended by the respondents alongwith their reply and authored by the District Social Security Officer, Gurdaspur shows that the respondents have themselves admitted that the pension of Rs.8,000/- per month is given to the acid attack victims male/female by the Department and no other compensation is given. Learned counsel for the petitioner contends that the Department of Social Welfare has also not released the aforesaid pension to the petitioner despite the said Scheme being non-discriminatory. No reasons have been assigned as to

why the aforesaid admissible pension has not been released yet in favour of the petitioner, especially when the incident in question has not been disputed and the certificate of physical disability issued in favour of the petitioner has also not been denied by the respondents.

The submission of the respondents that the pension is admissible only to female victim of acid attack is thus not substantiated even from the reading of the documents placed on record by the respondents themselves. The response of the respondent-State is thus not based on correct interpretation and reading of the aforesaid letter/communication. It is thus held that a victim of acid attack is entitled to compensation irrespective of his/her gender and such discrimination cannot be practiced by the State for denying the benefits of Social Welfare Schemes.

As per Notification dated 17.06.2013, the victim of an acid attack is entitled to a maximum compensation of Rs.3,00,000/- in case of disfigurement of face. Invariably, a jug full of acid had been thrown on the face of the petitioner resulting in not only permanent 100% loss of vision but also the disfigurement of the face.

Accordingly, the compensation of Rs.3,00,000/- as stipulated in the Notification dated 17.06.2013 is directed to be disbursed to the petitioner alongwith the pension of Rs.8,000/- per month as per the Social Welfare Scheme notified by the respondents w.e.f the date when the petitioner suffered the aforesaid physical disability. The dues qua the pension as per the Social Welfare Scheme at the rate of Rs.8,000/- per month shall be calculated within a period of six weeks from the date of receipt of certified copy of this order and shall be released in favour of the petitioner within a period of next six weeks thereafter. If any amount has already been released to the petitioner towards

the pensionary benefits under the Social Welfare Scheme, the said amount may be adjusted. In the event of the respondents failing to release the aforesaid payment to the petitioner within the period as stipulated above, the petitioner shall be entitled to interest at the rate of 6% per annum from the date of institution of the present petition till the final disbursement of the benefits.

The petition is accordingly allowed in terms as aforesaid.

23.02.2023.
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(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No