

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 3081 of 2018

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1. Ganga Mandal S/o Bhaglu Mandal.
 2. Sita Devi, W/o Ram Binod Das.
 3. Meena Devi, W/o Daya Shankar Mandal.
 4. Nirmala Devi W/o Ganesh Mandal
 5. Nandlal Das, S/o Jai Mangal Das.
 6. Nabonath Jha, S/o Laxmi Kant Jha.
 7. Pradeep Kumar Mandal S/o Ram Bhajan Mandal
 8. Renu Devi, W/o Ramprit Paswan
 9. Sarita Devi, W/o Sarvjeet Das.
 10. Lalu Yadav, S/o Ram Kant Yadav.
 11. Sri Kishun Mandal, S/o Balel Mandal.
 12. Anita Devi, W/o Ram Kripal Mandal
 13. Indu Devi, W/o Shashi Kant Mandal.
 14. Fekani Devi W/o Kanhai Mandal
 15. Ramdai Devi, W/o Ram Bhajan Yadav.
 16. Ram Adhar Paswan, S/o Jamun Paswan.
 17. Vindeshwar Das, S/o Sunar Das
 18. Usha devi, W/o Ram Bali Paswan
 19. Leela devi, W/o Ram Bilas Paswan
 20. Renu Devi W/o Ram Lagin Paswan
 21. Yugmaya Devi, W/o Ram Sewak Mandal.
 22. Ram Udgar Mandal, S/o Janak Mandal.
 23. Ranjani Devi, W/o Shiv Shankar Paswan
 24. Manju Devi, W/o Ramlal Mandal
 25. Veena Devi, W/o Udit Mandal
 26. Anita Devi, W/o Pawan Kumar Mandal

All Resident of Village-Rupauliya, P.O.-Khangraitha, P.S. -Baheri,
District-Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Disaster Management Department, Govt. of Bihar, Patna.
2. The District Magistrate, Darbhanga.
3. The Sub-Divisional Officer, Sadar, Darbhanga.
4. The Circle Officer, Baheri, Darbhanga.



5. The Block Development officer, Baheri, District-Darbhanga.

... .. Respondent/s

Appearance:

For the Petitioner/s	:	Mr. Rajeev Lochan, Advocate Mr. Pawan Kumar Chaudhary, Advocate
For the State	:	Mr. Md. Khurshid Alam -AAG12

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

CAV JUDGMENT

Date: 12-11-2024

The present writ petition has been filed by the petitioners, for payment of compensation to them as per the guidelines, issued by the Disaster Management Department, Government of Bihar, Patna, in view of the damage caused to their residential houses as well as household articles, due to widespread fire. The petitioners have further prayed for quashing of the enquiry report of the Circle Officer, Baheri, Darbhanga whereby and whereunder recommendation has been made for payment of compensation on the basis of enquiry conducted after lapse of a year of the incident in question.

2. The brief facts of the case, according to the petitioners, are that on 12.04.2016, at about 11 a.m. widespread fire had engulfed the houses situated at village-Rupauliya, P.O.-Khangraitha, P.S. -Baheri, District-Darbhanga, leading to the residential houses of altogether 95 families, including the petitioners, being fully damaged and destroyed. On the same day, the matter was enquired into by the Revenue Karmchari



and he had submitted a report dated 12.04.2016, before the Circle Officer, Baheri, Dist.-Darbhanga, *inter alia* stating therein that the residential *kachcha* houses (mud houses) of 95 families have been completely burnt, hence *ex gratia* payment can be paid to them. It is further stated by the petitioners that all the affected families, including the petitioners were given a sum of Rs.6000/- (Rs.3000/- for food grains & Rs.3000/- *ex gratia* amount) per family along with polythene for construction of shed and subsequently, after about 8-10 months of the said incident, a sum of Rs.3800/- per family was also paid as relief amount for clothing and utensils. The petitioners are also stated to have lodged a *sanha* on 13.04.2016 at the Baheri Police Station, however, no FIR was registered.

3. The learned counsel for the petitioners has contended that apart from the aforesaid amount paid to the petitioners, no further compensation had been paid in lieu of complete damage of the houses of the petitioners on account of the fire which had broken out in the village on 12.04.2016, hence the affected families had resorted to agitation, whereafter the Sub-Divisional Officer, Sadar, Darbhanga had vide order dt. 28.03.2017, constituted an enquiry team comprising of eight officials, for the purposes of assessing the damage caused to the houses of the



said affected families due to fire which had broken out in the village.

4. The enquiry committee, under the signature of the Circle Officer, Baheri, had submitted a report dated 07.04.2017 wherein the following factual findings were arrived at:-

(i) Cases where ईट खपरैल (brick and straw) houses have been partially burnt:-

Petitioners no.1, 3 to 6, 9 to 11, 14, 18, 20, 21, 25 and 26

(ii) Cases where huts have been completely burnt:-

Petitioners no.15 to 17, 19, 23 and 24.

(iii) Cases where straw houses have been completely burnt:-

Petitioners no. 12 and 22

(iv) Case where *pucca* (brick) house has been partially damaged:-

Petitioner no.2.

5. It is next submitted by the learned counsel for the petitioners that in view of the aforesaid recommendation dated 07.04.2017, made by the Circle Officer, Baheri, affected families, including the petitioners have though been paid some amount of compensation, however, the same is not in consonance with the guidelines issues by the Principal



Secretary, Disaster Management Department, Government of Bihar, Patna, contained in letter dated 26.05.2015, relevant portion whereof is reproduced hereinbelow:-

HOUSING/अवसरो/घरान	
a) Fully damaged/ destroyed houses	
i) Pucca house	Rs. 95,100/- per house, in plain areas.
ii) Katcha House	Rs. 95,100/- प्रति मकान, मैदानी क्षेत्रों के लिए
iii) पूर्णतया क्षतिग्रस्त मकान	Rs.1,01,900/- per house, in hilly areas
(i) पक्का मकान	including Integrated Action Plan (IAP) districts, Rs.1,01,900/- प्रति मकान, पहाड़ी क्षेत्रों के लिए आइएपीडी जिलों सहित
(ii) कच्चा मकान	
b) Severely damaged houses	
i) Pucca House	
ii) Katcha House	
(iii) अत्यधिक क्षतिग्रस्त मकान	
(i) पक्का मकान	
(ii) कच्चा मकान	
c) Partially Damaged Houses -	
(i) Pucca (other than huts) where the damage is at least 15%	Rs. 3,200/- per house
(ii) Katcha (other than huts) where the damage is at least 15%	Rs. 3,200/- per house
(ग) आंशिक रूप से क्षतिग्रस्त मकान	
(i) पक्का (झोपड़ी को छोड़कर) जहाँ मकान की क्षति न्यूनतम 15% हो	₹ 3,200/- प्रति मकान
(ii) कच्चा (झोपड़ी को छोड़कर) जहाँ मकान की क्षति न्यूनतम 15% हो	₹ 3,200/- प्रति मकान
d) Damaged / destroyed huts:	Rs. 4,100/- per hut. (Hut means temporary, make shift unit, inferior to Katcha house, made of thatch, mud, plastic sheets etc. traditionally recognized as hut by the State/District authorities.) Note: The damaged house should be an authorized construction duly certified by the Competent Authority of the State Government.
(घ) क्षतिग्रस्त / नष्ट झोपड़ी	₹ 4,100/- प्रति झोपड़ी (झोपड़ी का मतलब— अस्थायी, बनाकर हटाने वाली ईकाई, कच्चा मकान का प्राथमिक भाग, पूस, गीली मिट्टी, प्लास्टिक शीट्स से बना राज्य/ जिला के अधिकारियों द्वारा परंपरिक रूप से चिह्नित, पहचानने और जानने योग्य झोपड़ी है) क्षतिग्रस्त झोपड़ा मकान राज्य सरकार के स्वतंत्र प्राधिकारी द्वारा उचित रूप से प्रमाणित एक प्राधिकृत संरचना होनी चाहिए।
e) Cattle shed attached with house	Rs.2,100/- per shed
(ङ) घर के साथ संलग्न पशु शेड	₹ 2,100/- प्रति पशु शेड

6. Lastly, it is submitted by the learned counsel



appearing for the petitioners that the petitioners are entitled to get compensation @ of Rs. 95,100/- each, in view of the aforesaid guidelines issued by the Disaster Management Department, Government of Bihar, Patna and in light of the report submitted by the Revenue Karmchari dated 12.04.2016.

7. *Per contra*, the learned counsel for the respondent-State has submitted, by referring to the counter affidavit filed in the present case, sworn by the District Magistrate, Darbhanga, that a Joint Committee, under the Chairmanship of Additional Collector, Darbhanga, was constituted vide Memo dated 16.08.2022, for making proper enquiry into the matter, whereafter the said committee had enquired into the matter and submitted a joint enquiry report dated 20.08.2022. It is further submitted that in fact notices were issued to the petitioners, vide memo dated 20.08.2022, in order to grant them reasonable opportunity to put forth their claims before the District Magistrate, Darbhanga, whereafter they had appeared personally and made their submissions, which was duly recorded and thereafter, the District Magistrate, Darbhanga has passed a reasoned order dated 23.08.2022, *inter alia* coming to a finding that on the basis of enquiry report dated 17.08.2022, submitted by the enquiry committee, after spot and physical verification as



also upon consideration of the statements made by the petitioners, it has been found that the petitioners have admitted that their houses have been partially damaged, inasmuch as only *chhapar* (roof) had been burnt, thus, it is clear from the enquiry report that the claim of the petitioners are baseless and unfounded. The learned counsel for the respondent-State has also referred to the statements made by the petitioners, duly signed by them, which can be found at running page nos. 84 to 88 of the brief, to show that all the petitioners have admitted that the roof (*chhapar*) of their houses made of brick and straw and the articles kept therein had got burnt, thus it is submitted that the petitioners have already been paid adequate compensation and their claim to any further compensation is baseless and unfounded, especially in view of the fact that Rs.6000/- per family has been paid for food grains and by way of *ex gratia* amount, a sum of Rs.3800/- has been paid for clothing and utensils and a sum of Rs.5200/-and Rs.4100/- respectively, has been paid as compensation for the partially damaged houses of the petitioners.

8. I have heard the learned counsel for the parties and perused the materials on record. This Court finds that initially, the Revenue Karamchari had submitted a report dated



12.04.2016, wherein he had stated that all the houses are mud houses/*kachha* houses and have been completely damaged on account of the fire which had engulfed the village. Yet another report is the one dated 07.04.2017, which has been submitted by the Circle Officer, Baheri, upon enquiry made by eight officials, pursuant to the joint enquiry committee constituted by the Sub-Divisional Officer, Sadar, Darbhanga, vide letter dated 28.03.2017, wherein it has been found that most of the petitioners had houses made of brick and straw, which have been partially damaged, although it has also been found that as far as the petitioners no.15 to 17, 19, 23 and 24 are concerned, their houses have been damaged completely, apart from straw houses of petitioners no.12 and 22 being found to have been completely damaged and as far as petitioner no.2 is concerned, his pucca house is stated to have been damaged partially, however, there is no report about damage of houses of the petitioners no.7, 8 and 13.

9. This Court further finds that yet another report has been submitted by a joint enquiry committee, which is dated 20.08.2022, wherein the petitioners have admitted that their houses were made of brick and straw and its roof (*chhapar*) had been burnt in the said incident of fire apart from the articles kept



therein having also got burnt, for which adequate compensation has already been paid to them, as has been mentioned in the preceding paragraphs. Thus this Court finds that compensation in lieu of and to the extent of damage caused on account of the said incident has already stood paid to the petitioners by the respondent officials, nonetheless various enquiry reports, depicting varying findings about the extent of damage caused to the houses of the petitioners as also regarding the type of houses of the petitioners are on record, as has already been discussed hereinabove in the preceding paragraphs and in fact even the so-called *sanaha* filed by the petitioners also contain description of the damage caused to the houses in question, which is also at variance with the aforesaid reports, hence this Court finds that the present case involves disputed question of facts which cannot be adjudicated in a writ petition under Article 226 of the Constitution of India, more so since the learned counsel for the petitioners has seriously disputed the *bona fide* and dependable report dated 07.04.2017, submitted by the Circle Officer, Baheri, based on which the respondents have paid adequate compensation to the petitioners. In this connection, reference be had to the following judgments, rendered by the Hon'ble Apex Court, wherein it has been consistently held that disputed



questions of facts cannot be adjudicated in a writ petition under Article 226 of the Constitution of India:-

*(I) Judgment rendered in the case of **Shri Sohan Lal vs. Union of India & Another**, reported in AIR 1957 SC 529;*

*(ii) Judgment rendered in the case of **Punjab National Bank & Others vs. Atmanand Singh & Others**, reported in 2020 SCC Online SC 433;*

*(iii) Judgment rendered in the case of **Thansingh Nathmal and Ors. vs. Superintendent of Taxes, Dhubri and Ors.**, reported in AIR 1964 SC 1419;*

*(iv) Judgment rendered in the case of **Babubhai Muljibhai Patel vs. Nandlal Khodidas Barot**, reported in (1974) 2 SCC 706;*

*(v) Judgment rendered in the case of **Government of Andhra Pradesh vs. Thummala Krishna Rao & Anr.**, reported in (1982) 2 SCC 134.*

10. Reference be also had to the judgments rendered by the Hon'ble Apex Court in the case of **Orissa Agro Industries Corporation Ltd. & Others vs. Bharti Industries & Others**, reported in (2005) 12 SCC 725, the one rendered by the Hon'ble Apex Court in the case of **Radha Krishan Industries vs. State of Himachal Pradesh & Others**, reported in (2021) 6 SCC 771, and the one rendered by the Hon'ble Apex Court in the case of



Shubhas Jain vs. Rajeshwari Shivam & Others, reported in *(2021) 20 SCC 454*, apart from the judgment rendered by this Court in the case of *Ripusudan Singh vs. State of Bihar & Ors.*,reported in *2023 (5) BLJ 372*.

11. Having regard to the facts and circumstances of the case and for the foregoing reasons, I do not find any merit in the present writ petition, hence the same stands dismissed.

(Mohit Kumar Shah, J)

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AFR/NAFR	AFR
CAV DATE	04.09.2024
Uploading Date	12.11.2024
Transmission Date	NA

