



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4506 OF 2024

Maroti s/o Ganpati Lokhande, ... **Petitioner**
Age 71 years, Occu: Pensioner,
R/o Sundar Nagar, Chandanzira, Jalna

VERSUS

1. The State of Maharashtra,
Through its Secretary,
General Administration Department
Mantralaya, Mumbai-32
2. The District Collector, Nanded ... **Respondents**
3. The District Collector, Jalna
4. The Tahsildar, Jalna Tq. & Dist. Jalna

Mr. Vaibhav B. Dhage, Advocate for the Petitioner,
Ms. Neha Kamble, AGP for the Respondents-State

CORAM : RAVINDRA V. GHUGE, &
Y. G. KHOBRAGADE, JJ.

RESERVED ON : 29th July, 2024

PRONOUNCED ON : 07th August, 2024

JUDGMENT (Per: Y. G. Khobragade, J.)

1. Rule. Rule made returnable forthwith and heard finally by consent of the parties.
2. By the present Petition, the Petitioner has prayed for issuance of Writ of Mandamus, directing Respondent No. 3 to pay arrears of

financial assistance w.e.f. 02.01.2018 till 11.11.2022 at the rate of Rs.10,000/- per month with interest @ 9% p.a. as per Government Resolution dated 03.07.2018. The Petitioner further prayed for compensation to the tune of Rs.50,000/- for deliberate inaction for non payment of the financial assistance.

3. The learned counsel appearing for the Petitioner canvassed that during the period of emergency, the Petitioner along with 13 others innocent persons were detained in jail for the period of two months under Rule 43(5) of the Defence of India Rule. On 14.02.2018, the State Government constituted a Committee for providing financial assistance to the detenues who were detained during emergency period declared w.e.f. 25.06.1975 till 31.03.1977. On 3rd July 2018, the State Government issued G.R., and framed a policy for providing financial assistance to the detenues of emergency Period and also to honour them. As per Clause 1 of the said GR, the detenues, who suffered detention for more than one month, are entitled for monetary benefits of Rs. 10000/- per month. However, due to lack of fund, during Covid-19 pandemic, the said financial assistance was suspended under GR dated 31.07.2020.

4. Being aggrieved by the GR dated 31.07.2020, the Lokatantra Senani Sangh Samiti filed a Writ Petition No. 7187 of 2020, but during

the pendency of said Petition, Respondent No.1 decided to continue to extend monetary benefits under GR dated 14.02.2018. Accordingly, on 23.08.2022, this Court disposed off the said Petition.

5. The learned Counsel appearing for the Petitioner canvassed that, the Petitioner was convicted and sentenced for the period of two months as per the judgment and order dated 25.08.1975 passed by the learned JMFC, Kandhar, in RCC No. 458 of 1975. The Petitioner also filed an affidavit alongwith his application dated 06.09.2018, in compliance of G.Rs., dated 14.02.2018 and 03.07.2018, stating that he was detained by Police along with Shri Uttam Ganpatrao Kadam and 17 other. So also, they were prosecuted under Rule 43(5) of the Defence of India Rules. However, Respondent No. 3, Collector, Jalna rejected the claim of the Petitioner vide order dated 03.10.2019, on ground that the Petitioner has failed to produce substantial evidence in support of his detention during the period of emergency. Therefore, action on part of Respondent No. 3 is illegal and bad in law and prayed for quashing and setting aside of the same.

6. Per contra, Ms. Pranali Trimbak Tayade, Tahsildar, Jalna filed an affidavit in reply on behalf of the Respondents and resisted claim of the Petitioner. The Respondents admitted about floating of scheme for honouring the detenues who fought for democracy during period of

emergency from 1975 to 1977 as per GR dated 14.02.2018 and for providing financial assistance as per GR dated 03.07.2018 which is to be implemented with effect from 02.01.2018. However, the Committee constituted under GR dated 14.02.2018 rejected the Petitioner's application dated 26.04.2018 because, the Petitioner has failed to produce substantial documents in support of his detention during the period of emergency. Thereafter, Respondent No. 3 considered the application and vide order dated 22.12.2022, granted compensation of Rs. 5000/- by considering that the Petitioner was imprisoned for a period of 10 days during the period of emergency.

7. Ms. Neha Kamble, the learned Assistant Government Pleader canvassed that, on 05.01.2023, the Petitioner submitted an application to Respondent No. 3- Collector for consideration of his imprisonment period as 01 Month 22 days. On 15.06.2023, Respondent No. 3- Collector, Jalna passed an order and granted financial assistance to the Petitioner to the tune of Rs. 10,000/- per month, considering his detention period of two months.

8. The learned AGP canvassed that on 25.05.2023, the State Government issued GR for providing monetary assistance to the detenues during period of emergency, however, the detenues were required to file fresh applications on or before cut off date i.e. 31st

October 2022, however, the Petitioner submitted the application on 5th January, 2023 (X-1). Therefore the Petitioner is not entitled for monetary benefit with retrospective effect.

9. Needless to say that, as per GR dated 14.02.2018, the State Government constituted a committee to honour the detenues who were detained during the period of emergency w.e.f. 25.06.1975 to 31.03.1977. As per GR dated 26.02.2019, said detenues were required to furnish an affidavit on stamp paper of Rs. 100/- and other information was not mandatory. As per the GR dated 03.07.2018, said detenues are entitled to receive financial assistance to the tune of Rs. 10,000/- per month. Besides detainee, his widow is entitled to receive Rs. 5,000/- per month as an honorarium, if the said person is detained for more than one month and the detainee who was detained for less than one month would be entitled for Rs. 5000/-.

10. It is not in dispute that, during Covid-19 pandemic, the scheme of providing financial assistance to the detainee during period emergency was temporarily suspended vide GR dated 31.07.2020. The Petitioner produced copy of extract of Case Register of RCC No. 458 of 1975, which shows that the learned JMFC, Kandhar has sentenced the Petitioner for the period of two months. The Petitioner had undergone said sentence.

11. Needless to states that, the Committee constituted under the Chairmanship of Respondent No. 3-Collector has considered the claim about entitlement of the Petitioner for receiving monetary benefit under the GR dated 14.02.2018, as he was sentenced by the JMFC, Kandhar. The Respondents admitted that the Petitioner alongwith 12 other persons are entitled for monetary benefits being detenue during emergency period.

12. Needless to say that as per GR dated 03.07.2018, detenue who suffered detention for more than one month is entitled for the monetary benefit of Rs. 10,000/- per month w.e.f. 02.01.2018. However, said GR does not contemplate about extension of monetary benefit from the date of application on which such detenue may submit an application. No doubt, GR dated 03.07.2018, was suspended by another GR dated 31st July, 2020, but again vide GR dated 28.07.2022, the suspended GR dated 03.07.2018 has been restored. Since, the Petitioner has suffered detention for the period more than one month during period of emergency, therefore, considering his grievance, he would be entitled for the monetary benefits of Rs. 10,000/- per month as per GR dated 03.07.2018 w.e.f. 02.01.2018 till 11.11.2022. Therefore, Respondent No. 3 is not justified in granting financial assistance of Rs. 5000/- as per order dated 22.12.2022 which has been subsequently modified under order dated 15.06.2023.

13. Though, the learned AGP canvassed that, on 05.01.2023, the Petitioner submitted an application and prayed for monetary assistance being a detainee during emergency period, however, as per GR issued on 25th May 2023, the cut off date provided is 31st October 2022, however, the Petitioner applied on 05.01.2023. Therefore, the Petitioner is not entitled for monetary assistance with retrospective effect. In this regard it is submitted that, on 06.09.2018, the Petitioner for the first time submitted an application with required affidavit in compliance of G.Rs., dated 14.02.2018 and 03.07.2018, stating that he was detained by Police alongwith Shri Uttam Ganpatrao Kadam and other 17. Again, on 09.07.2020, the Petitioner tendered an application dated 09.07.2020 alongwith required affidavit with Respondent No. 3 and produced extract of Case Register in respect of his detention during emergency period and prayed for extension of financial assistance under GR dated 03.07.2018. Therefore, it cannot be said that the Petitioner for the first time submitted application dated 05.01.2023 (Exh.-X-1). Therefore the submission canvassed on behalf of Respondents that the Petitioner is not entitled for any monetary benefits under G. R. dated 3rd July, 2018 w.e.f. 2nd January, 2018 does not appear to be justifiable. However, said G. R., does not contemplate about award of interest and compensation, therefore, the Petitioner is not entitled for interest and compensation thereon.

14. In view of the above discussion, **the present Petition is partly allowed** in terms of prayer clause B to the extent of financial assistance.

Prayer B reads as under :-

(B) Issue writ of mandamus, or any other writ, order or direction like in the nature of writ of mandamus, directing the respondent no.3 to pay the arrears of financial assistance from 02.01.2018 to 11.11.2022 @ Rs.10,000/- per month as per GR dated 03.07.2018 @ 9% interest to the Petitioner.

15. Rule is made absolute accordingly. No order as to costs.

(Y. G. KHOBRAGADE, J.)

(RAVINDRA V. GHUGE, J.)

JPChavan