

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

118

CWP-4508-2024
Date of Decision: 27.02.2024

GITA

... Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

... Respondents

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

Present: Mr. Randeep Tanwar, Advocate
for the petitioner.

Mr. Pankaj Mulwani, DAG, Haryana.

Mr. Vivek Saini, Advocate
for respondents No.2 and 3.

VINOD S. BHARDWAJ, J. (ORAL)

Challenge in the present petition is to the order dated 05.08.2022 passed by the respondent No.3, the Secretary-cum-Executive Officer, Market Committee, Gharaunda, District Karnal declining the claim of the petitioner for providing special financial assistance on account of death of her husband under the Mukhya Mantri Kisan Evam Khetihar Majdoor Jivan Suraksha Yojna, 2013 as well as the subsequent order dated 02.02.2024 passed by the Chief Administrator, Haryana State Agriculture Market Board, Panchkula in an appeal preferred by the petitioner.

Learned counsel for the petitioner contends that Shakti Singh, husband of the petitioner was an agriculturist and used to carry out labour work in the fields of one Yograj on *batai* basis. On 12.03.2022, he was carrying out the work of spraying pesticides at around 02.00 P.M. when he got intoxicated due to inhaling of the pesticide and fell on the ground. He was taken to the

Kalpana Chawla Government Medical College, Karnal where he died during treatment. Copy of the Death Certificate has been appended as (Annexure P-1). A DDR No.019 dated 13.03.2022 was also registered at Police Station City Karnal. The report of the FSL, Madhuban has suggested the cause of death to be on account of organophosphorus pesticide.

Learned counsel for the petitioner vehemently argues that the case of Shakti Singh – husband of the petitioner having died on account of inhaling pesticide during agricultural operations is covered under Clause 3(g) of the Scheme of Mukhya Mantri Kisan Evam Khetihar Majdoor Jivan Suraksha Yojna, 2013. The petitioner thus submitted an application for disbursement of the financial benefits in terms of the aforesaid scheme and as per Clause -8 thereof. The same was duly supported by the DDR and the postmortem report. The claim of the petitioner was however, wrongly declined vide order dated 05.08.2022, against which the petitioner filed a petition bearing No.CWP-18632 of 2023. The said writ petition was disposed of vide order dated 24.08.2023 with liberty to the petitioner to avail the alternative remedy. The appeal was consequently filed by the petitioner which has also been dismissed vide order dated 02.02.2024. Both the said orders are impugned herein. It has been argued at length that Shakti Singh died during the agricultural operations and that a rigid attitude cannot be adopted by the respondent-Authorities in a ministerial manner while examining the cases for compassionate financial assistance. Reliance in this regard has been made on the judgment of '**Kamlesh Versus Chief Administrator, Haryana State Agriculture Marketing Board**', passed in **CWP No.4472 of 2019** decided on 21.04.2023. The extract relied by the petitioner is reproduced hereinafter below:

"A rigid attitude of the respondent-Authorities to not see any reason and/or to appreciate the documents appended along with the claim application is a classic elucidation of the red-tapism that mars the welfare scheme of the Government. Sufficient play in the joints should ordinary be read into the statutory provisions. Once the object behind seeking a particular document is to determine the cause of death, the ancillary documents which establish the same, without any iota of doubt, may also be looked into for disbursement of compensation for the death that took place as a result of such accident.

The requirements should not be construed in a manner that it defeats the object of the Scheme, more-so, when there is sufficient evidence on record to establish the fact for which such document is being demanded. Post Mortem is surely the primary evidence to determine cause of death, however, the same cannot be construed that no secondary evidence will never ever be accepted or considered. The Authorities are required to ensure functionality of the Scheme and not to scuttle its enforcement."

Mr. Vivek Saini, Advocate, who has entered appearance on behalf of the respondent- Haryana State Agriculture Marketing Board, contends that the claim of the petitioner has been rightly declined by the Authorities below after noticing that it was not a case of accidental inhalation or death during applying/spraying pesticides/insecticides and rather the postmortem report suggests it to be a case of consumption of pesticide. He has drawn attention of the Court towards the report of FSL, Madhuban. The relevant part thereof reads thus:

"Description of parcel(s) and condition of seal(s)

XXX Division on unit Laboratory through XXXX web portal. The seal(s) on the xxxxxxxx with bar coded software specimen seal(s). This report should not be used as proof to xxxxxxxxxxxx for the

correctness details (Police Details etc. appearing above) and the same are subject to verification from the concerned forwarding.

DESCRIPTION OF ARTICLE (S) CONTAINED IN
PARCEL(S)

Bar Code No.	Parcel No.	No. & Seal Impression	Description of parcel(s)/Exhibit(s).
FSL 41920- 220429- 1686315 PS:41920- 220421- 106776	1	10 (FMT)	One sealed cloth parcel with bar code 41920-20429-1686315 enclosing a card board box containing following exhibits: PRM No.KGCMCH/AM/2022/03 Dated 13.03.2022 Exbt-1a: Stomach and its contents. Exbt-1b: Loops of small and large intestines. Exbt-1c: Pieces of liver, spleen and kidney. Exb-1d: Blood approx-4ml Exbt-1e: Saline preservative approx. 300 ml.

LABORATORY EXAMINATION

Chemical test and techniques were employed to detect common gaseous and volatile poisons, metallic poisons, inorganic ions, plant poison, pesticides and drugs in exhibits-1a to 1e. Based upon the examination carried out in the laboratory, the results are given as under

RESULT OF EXAMINATION

1. An organophosphorus pesticide was detected in exhibits-1a, 1b, 1c and 1d.
2. No common poison could be detected in exhibit-1e.”

It is thus suggested that the presence of the metallic poison and inorganic irons and plants poison in the stomach, kidney and spleen clearly shows that it was not a case of accidental inhalation of the pesticide/ insecticide

during the course of agricultural operations and rather seems to be consumption of the said poisonous substance. It is contended that a case of suicide by a farmer is not covered under the abovesaid scheme of Mukhya Mantri Kisan Evam Khetihar Majdoor Jivan Suraksha Yojna, 2013 and that the said scheme intends to give benefits for an accidental death or injury which a farm labourer/farmer suffers during carrying out farming/agricultural operations. He has drawn attention of this Court to the order passed by the Appellate Authority. The relevant part thereof reads thus:

“Therefore, the case was fixed for arguments on 16.01.2023, heard through Video conferencing (VC). Notice in this regard was served to both the parties, the claimant appeared in person and stated that her husband namely Late Sh. Shakti Singh was doing work of spraying pesticides in the fields on 12.03.2022 around 2.00 PM and during the same he got intoxicated the Organophosphorus pesticide and consequently died. She further submitted that a DDR was registered in the police station Karnal City on 13.03.2022. She further pleaded that the report of FSL, Madubhan Karnal also received in the present case which corroborates the case of the appellant and same proved that her husband was died due to intoxication of the Organophosphorus pesticide. At last, she pleaded that the Financial Assistance be given to her under The Mukhyamantri Kisan & Khetihar Majdoor Jiwan Suraksha Yojana-2013 and requested to set aside the impugned order passed by Secretary-cum-E.O.

On the other hand, the Secretary, Market Committee, Gharaunda submitted that the case of the appellant was received in this office and the same was rejected after doing investigation and receiving the FSL report. As the report shows that the cause of death of victim was due to ingestion/taking of the pesticide and therefore the case of the appellant was not covered under The

Mukhyamantri Kisan & Khetihar Majdoor Jiwan Suraksha Yojana-2013. At last the Secretary-cum-E.O. submitted that the claim is liable to be rejected

After carefully examined the documents and on perusal of record, the FSL report indicates the fact that the death occurred due to intake of Organophosphorus pesticide which was detected in exhibit 1a, 1b and 1c i.e. stomach, intestine, lungs, liver, Kidney, blood of the victim which proves that the instant case is not inhalation of pesticide rather the death may be due to the ingestion/intake. Further the appellant also admitted in her petition that her husband was died due to intoxication of Organophosphorus pesticide. Moreover, the Mukhyamantri Kisan & Khetihar Majdoor Jiwan Suraksha Yojana 2013” also provides which is following

- a. Death or disablement of any farmer or labourer while applying any insecticides, pesticides, weedicides, electric shock, fire hazards during the agricultural operations/pursuits within the State of Haryana.*

Therefore, in view of the above facts and circumstances, the relief cannot be extended to the deceased person/claimant. Hence, the impugned order of Secretary-cum- E.O. is upheld and accordingly, the claim of the appellant is rejected.

Ordered accordingly. Be communicated.

A perusal of the aforesaid order shows that the Chief Administrator of the Haryana State Agricultural Marketing Board has examined the documents including the FSL report, which suggests that the death has occurred due to intake of organophosphorus pesticide as is available from the swabs/viscera. In the event of inhalation of the pesticides, the inhaled particles would have been found present only in the lungs and the bronchi and not in the

kidney, liver, stomach, spleen or the large/small intestines. The presence of the organophosphorus pesticide in the digestive chain clearly reflects that it is not a case of accidental inhalation of pesticides and is rather a case of consumption/intake of the abovesaid pesticide.

The case of the petitioner is thus not covered under the judgment of *Kamlesh (supra)* as it is apparently not a case of accidental death during agricultural/farming operations and appears to be a case of consumption of the pesticide. The claim of the petitioner does not fall under the guidelines laid down in the scheme of Mukhya Mantri Kisan Evam Khetihar Majdoor Jivan Suraksha Yojna, 2013 and the same has thus been rightly declined by the Executive Officer as well as the Appellate Authority. Finding no illegality, perversity or impropriety in the orders passed by the Authorities concerned and that the findings recorded by them do not suffer from any misappreciation of facts, I fail to find myself in agreement with the counsel for the petitioner.

The present petition is accordingly dismissed.

FEBRUARY 27, 2024
rajender

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No