



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-12460-2022

Date of decision: 10.07.2024

SUBHITA

.....Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

.....Respondents

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

Present: - Mr. Anil Kumar Gahlawat, Advocate
for the petitioner.

Mr. Pankaj Mulwani, DAG, Haryana.

Mr. R.D. Bawa, Advocate with
Mr. Randhir Bawa, Advocate and
Mr. Rishabh Rana, Advocate
for respondents No. 2 to 4-HSAM Board.

VINOD S. BHARDWAJ, J. (Oral)

1. Challenge in the present writ petition is to the order dated 13.12.2019 (Annexure P-11) passed by the Secretary-Cum-Executive Officer, Market Committee, Kosli, District Rewari as well as to the order of dismissal of the appeal dated 21.09.2021 passed by respondent No.4-Zonal Administrator, Haryana State Agricultural Marketing Board. A further prayer has been made for directing to the respondents to pay a sum of Rs. 5 lakhs as compensation alongwith interest @ 18%, being eligible for the same, under the “*Mukhay Mantri Kisan Evam Khetihar Majdoor Jiwan Suraksha Yojna, 2013*”.



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2. Learned Counsel appearing on behalf of the petitioner contends that Pawan Kumar son of Om Parkash-husband of the petitioner was an agriculturist by occupation and that on the midnight of 31.08.2019 and 01.09.2019, Pawan Kumar went to the fields to irrigate his cotton crop and while carrying out the operations with the tube well starter, he suffered an electric current and died as a result thereof. Pawan Kumar was thereafter taken to the General Hospital, Charkhi Dadri where the attending doctor declared him dead. Post mortem was conducted at the General Hospital, Charkhi Dadri and even the post mortem, in the column of death, as per police papers, mentioned it to be on account of electrocution. The cause of death opined also by the doctors was on account of electrocution. The matter was reported to the Police vide Rapat No.19 dated 01.09.2019 in Police Post Matanhail, Police Station Sahlawas, District Jhajjar. Inquest proceedings under Section 174 Cr. P.C. were conducted in which they recorded that death of Pawan Kumar had occurred while working in the fields and due to electrocution when he went to operate the tube well starter in the tube well room to irrigate the crop of cotton. A claim was thereafter lodged by the petitioner for seeking compensation under the “*Mukhay Mantri Kisan Evam Khetihar Majdoor Jiwan Suraksha Yojna, 2013*” for ex-gratia financial compensation of Rs. 5 lakhs, however, the same was declined by the Executive Officer.

3. Aggrieved of the same, the petitioner preferred an appeal before the Zonal Administrator and also submitted affidavits of the persons who were originally contacted by the officials of the respondent-Marketing

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Board. The said appeal was also dismissed by the Zonal Administrator, Haryana exercising powers of the Chief Administrator vide order dated 21.09.2021. Aggrieved thereof, the present writ petition has been filed.

4. The Counsel for the petitioner has vehemently argued that the documents required and as prescribed under the Compensation Scheme are the Death Certificate and the inquest proceedings. Once the said requirement had been fulfilled, the respondent-Department could not have conducted an enquiry of its own to decline the claim and benefits admissible to them under the Scheme. He further vehemently argues that the persons who were reportedly contacted by the officials of the Committee namely Rajesh Kumar son of Kamal Singh, Jatinder Singh son of Samesh Sharma have already given an affidavit which are appended as Annexure P-13 alongwith the present writ petition wherein they have denied making any statement that Pawan Kumar had died at home while operating the cooler. Hence, the basis of the enquiry report conducted by the officials does not survive and that the claim of the petitioner ought to have been considered and granted. He further contends that in any case, the cause of electrocution is not in dispute and that as the inquest proceedings conducted by the Police have not been challenged and the Police specifically recorded that he died on account of electrocution while doing the agriculture operation in the fields, the compensation on account of the untimely death of Pawan Kumar ought to be released in her favour.

5. On the other hand, Counsel for the respondent- Haryana State Agriculture-Marketing Board has argued that the claim of the petitioner was

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inquired into by the officials of the respondent-department and that during the course of the enquiry conducted by them, statements of Rajesh son of Kamal Singh and Jitender son of Samesh were recorded. The same have also been placed on record and as per the specific statement, it was informed that deceased Pawan Kumar son of Om Parkash was peeling the electric wire with his mouth after taking bath and that he was unaware that the wire is plugged into live electric current. He died as a result of electrocution on account of thereof. On the basis of the aforesaid statement, which is duly signed by the authors, the officials of the respondent-Marketing Board reported that the deceased was not carrying out any agricultural operation during the time of his death and as such he was not covered under the Scheme of 2013. The claim was accordingly declined. The said aspect was also noticed by the Appellate Authority in the impugned order Annexure P-14. Relevant extract of the said order is extracted as under:

“The case was fixed for arguments and notice in this regd was served to both the parties, the claimant appeared in person and stated that the Secretary-cum-E.O. has not considered the material facts while rejecting the claim. She stated that during agricultural operation and while operating tube well starter he came in contact with electric current due to which he died. The DDR NO. 19 dated 01.09.2019 was also got registered and post- mortem on 01.09.2019 was also conducted wherein medical officer has opined cause of death is due to electrocution. She submitted that it is an admitted fact that her husband died due to receiving of an electric shock in agricultural fields and therefore, the claimant is entitled for the relief. She further submitted that Market committee has



completely erred while declining the claim of the appellant while relying upon the statement of some villagers who have playing dirty politics. She submitted that postmortem was conducted and DDR was got registered. In view of the above, she prayed that the impugned order of the Market Committee may be set aside and the relief under the Yojna may be extended to the claimant.

On the other hand, Secretary-cum-E.O., Market Committee stated that the appellant is not entitled to get the benefit under the Yojana as the case is not covered under the Yojana. He further submitted that during the enquiry it as found that the deceased died while operating cooler at home and he was not engaged in agricultural operations, therefore the claim of the appellant was rightly rejected.

I have carefully examined that documents presented before me and have also considered the facts and circumstances of the case. It is quire evident from the argument raised by the appellant that the deceased died due to electric shock. The Secretary, Market Committee has also not denied this fact, however the Secretary-cum-E.O. submitted his enquiry report and statement of the witnesses stating that the deceased died due to electrocution while operating cooler at home. Therefore, these documents do not corroborate the claim of the appellant. Further, Clause 3(g) of the Yojana provided as under: -

"3(g) Death or disablement of any farmer or labourer while applying any insecticides, pesticide, weedcised, electric shock, fire hazards during the agricultural operation/pursuits within the State of Haryana."

It is sequel of the forgoing discussion and in view of the facts and circumstance, the impugned order of the Secretary-



cum-E.O., Market Committee, Kosli is upheld and the claim of the appellant is rejected. I order accordingly.”

6. He thus contends that the object behind the scheme is to grant financial assistance to the aggrieved family of an agriculturist who unfortunately passes away during the course of agriculture operations and that it is not a financial assistance to an agriculturist who passes away for any other reason. It is submitted by him that the documents required and prescribed under the Scheme have to be read in the context of the Scheme and to advance the object and that the petitioner cannot claim the benefits merely because the Death Certificate and Inquest report have been furnished. The respondent-Department has every right to satisfy itself with respect to the validity of the claim. He refers to the following clauses of the said scheme:-

2. Scope of the Scheme

This Scheme is to provide special assistance to the victims of accidents occurred during agricultural operations in the fields, villages, market yards and while going or coming from such places within the State of Haryana. It shall be applicable to farmers, agricultural labourers and market yards labourers carrying on the agricultural operations/pursuits including cattle and poultry farming or dairy farming.

3. This Scheme shall cover the following incidents :-

(a) Death or disablement of any farmers or labourer due to an accident occurred while working on the Agricultural Machinery, Implements, Tools, Equipments,



Appliances arising out of the above said implements in the State of Haryana;

Xxx xxxx xxxx xxxx xxx xxx xxx xxx

(e) Death of disablement of any farmer or labourer due to electric current while carrying on any such agricultural operation;

xxx xxx xxx xxx xxx xxx xxx xxx xxx x

8. Procedure:-

(a) The proforma required for making an application is given in Annexure to the scheme. This proforma has to be filled up on behalf of the applicant and has to be signed or thumb impression marked by him/her. In case of man, if left thumb has been cut off, then the right thumb impression can be put. In case of woman, if right thumb has been cut off then the left thumb impression be put in case both the hands are chopped off, then the mark of front portion of the severed portion should be put on it. If both the thumbs are cut-off, then the finger prints of the existing hand be put. The application should also bear the signatures of the nearest kin/heir of the applicant.

(b) In the event of death of the victim, the application must be signed by the next of the kin besides the legal representative of the deceased. The claim petition must be attested by the Sarpanch or two Members of the Panchayat. In case of Municipal Committees/Municipal Corporation the verification shall be obtained through the Municipal Commissioner. In the absence of Gram Panchayat, Numberdar of the village concerned and in the absence of the Municipal Committee, the



Administrator of the Municipality may attest the claim petition. Thereafter, its attestation shall be obtained from the Sub-Divisional Magistrate concerned in the case of medical treatment, disability partial or complete or incapacitation of body/limb, the attestation certificate of only Registered Qualified Doctor shall be accepted.

(c) A copy of daily diary report and post-mortem report in case of death and disability certificate in case of disability shall be mandatory for submitting the claim.

(d) The claim petition should be supported by an Affidavit duly attested by Oath Commissioner or 1st Class Magistrate.

(e) In case of death, death certificate and in case of physical loss of limb, a photograph of the left over limb be also attested/attached on behalf of the claimant.

(f) The Chairman/Administrator of concerned Market Committee shall be competent to dispose of the applications/claims received under this scheme subject to overall control and supervision of the HSAMB.

g) The Chief Administrator of the Board is empowered to make modifications in the procedure laid down for making applications/claims and its disposal from time to time as he considers appropriate for the implementation of this scheme.

(Emphasis Supplied)

7. It is submitted by him that the requirement of a postmortem and the inquest proceedings are prescribed only in the process to enquire into existence of any foul play into the death that has occurred under suspicious

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circumstances or to ascertain whether it is an event of a suicide or accidental death. The same cannot be claimed as a conclusive proof of the mode and manner in which the incident in question has taken place and to claim that the Committee cannot ascertain the fact to its satisfaction. The same also does not debar the officials of the department from carrying out a fact finding enquiry at their own level and to satisfy themselves with respect to the applicability of the scheme and as to whether the benefits admissible under the scheme are to be released or not. The object of inquest proceeding under Cr.P.C. is only to enquire the cause and circumstances behind certain types of death and to satisfy whether any cognizable criminal offence is made out or not.

8. Besides, a perusal of the inquest report appended alongwith the present writ petition shows that only a statement of one Om Parkash son of Sheokaran had been recorded by him, however, there is no step taken by the Enquiry Officer to even ascertain the aforesaid statement. The site inspection has also not been conducted nor any spot inspection plan prepared. Under the given circumstances, a mere report furnished by the Enquiry Officer/Head Constable Rakesh Kumar dated 01.09.2019 cannot be taken as a final verdict on the cause and circumstances in which the incident had taken place. The scope of the said report is thus to be read in a restricted and confined manner.

9. I have heard learned Counsel appearing on behalf of the respective parties and have gone through the documents appended alongwith the present writ petition.



10. Even though, it has been emphatically argued by the Counsel that the petitioner is entitled to compensation under the Scheme of 2013 and that the only documents required to be furnished as per Clause 8 of the said scheme is a claim petition, the Daily Diary Report, the Postmortem Report as a proof for the cause of death and the inquest report, however, I fail to find myself in agreement with the Counsel for the petitioner.

11. Clause 8 of the said scheme prescribes the mandatory documents which are to be furnished alongwith an application for seeking compensation for release of financial benefit under the “*Mukhay Mantri Kisan Evam Khetihar Majdoor Jiwan Suraksha Yojna, 2013*”. But it cannot be said that nothing other than those documents can be looked into for determining the entitlement of the petitioner to claim compensation under the said scheme. The respondent-Department would still be within its competence to enquire into and to ascertain as to whether a claimant would be covered under the scheme or not and also to ascertain the cause and circumstances behind the death. The Clause 8 (f and g) of the Scheme provide that the Chairman/Administrator of the concerned Market Committee is competent to dispose of the application/claims received under the Scheme subject to over all control and supervision of the Haryana State Agricultural Marketing Board and the Chief Administrator of the Board is also empowered to make modifications in the procedure laid down for making applications/claims and for their disposal. Hence, the scheme itself confers the authority with the competence to decide the claim and to determine the same. If the intent of the scheme was to release the financial

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benefits solely on submission of the said documents, there was no occasion for vesting any power with the authorities concerned to take a decision on the claim and the scheme would have specifically provided that on submission of the said documents as a means of proof, the deceased/claimant would become entitled to release of the compensation.

12. Since an adjudication process has been provided for and a decision is required to be taken by the concerned authority, the satisfaction of the competent authority on the validity and admissibility of the documents adduced by a claimant to substantiate his claim cannot be said to be beyond its powers. Still further, every such documentation has to be seen in the context and within the confines of the scheme and the scope. It must not be lost sight of that the financial benefits under the Scheme are not a part of a statutory liability are rather a measure of benevolence. The Board which is to release the funds can always seek to conduct its inquiry for satisfying itself about genuine-ness of the claim. The requirement of mandatory documents to be submitted alongwith the application cannot be inferred or interpreted as the only documents that can be asked for.

13. A bar to conduct further enquiry cannot be read into the requirements prescribed.

14. Still further, a perusal of the inquest report shows that the said inquest report does not return any finding with respect to the cause and circumstances in which the incident in question had taken place. The same thus cannot be accepted as a conclusive proof of the cause and circumstances behind death of Pawan Kumar. It is further evident that the

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statements of two of the residents of the village were also recorded by the officials of the Marketing Board and they specifically informed about the death having taken place at home and in an attempt by the deceased Pawan Kumar to peel of the electric wire without removing the same from the live plug. The incident in question took place within the precincts of the house of the deceased and was not in the course of undertaking an agricultural operation. It seems that an attempt has been made on the part of claimant to seek compensation by making an improvement over the claim. In the absence of any investigation being conducted into the circumstances the place where the incident in question had taken place, a mere forwarding of the report by the Head Constable during the course of inquest proceeding, cannot be perceived as compliance of the requirement under the Scheme of 2013.

15. It is required to be kept in mind that an inquest is undertaken for determining the cause and circumstances of certain types of death. The object behind the same being not only for the legal, administrative, and the reasons of public safety alongwith ensuring justice but also for the medical determination of the cause of death and understanding the circumstances leading to the death. Ordinarily the investigation must not only record his findings on the cause of death but also on the circumstances leading to or surrounding the death. However, a perusal of the inquest report attached to the file shows that a very shallow and perfunctory inquest has been undertaken by the High Court and he has not proceeded no further than the post mortem report and the plea of the hospital emergency and recording of

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statement of one family person. The intent of the investigator was nothing beyond ruling out grievance of the family and to know from them if they suspected foul play. No attempt of any nature has been made by him even to ascertain whether the statements are correct or not by even going to the place of accident or making any inquiry from the Electricity Department about the manner of death or whether any electric current actually short-circuited into the switch or not. Acceptance of any such report as a final word on cause and circumstances of death to fasten a fiscal liability on public funds would only be an act of compromising objectivity, rationale and rule of law.

16. Even though, the scheme of 2013 is a benevolent scheme intending to render financial assistance to the farmers/laborer who has passed away during the course of agricultural operations, however, the benefits under the scheme cannot be governed by mere sympathy. Any person who is claiming benefits under a scheme is required to fulfill the eligibility condition i.e. the death has to occur during the course of an agricultural operation. Thus, it is not an eventuality of death but the death coupled with circumstances of the agricultural operation that qualifies the claimant to seek benefits under the Scheme, 2013.

17. The essential condition for claiming a benefit cannot be sacrificed in the name of sympathy. In doing so, a Court of law not only burdens the public exchequer with additional liability but also prompts people to misrepresent about cause of death only to claim financial benefit. The probability of corruption is sharing the proceeds of fraudulently obtained fruits compounds the problem. The requirement of law must be



substantially satisfied before invoking equity. A Court of law is not custodian of public funds but is certainly a guardian thereof to protect it from mindless, frivolous and arbitrary appropriation.

18. The petitioner was heavily relied on the affidavit of the witnesses denying having informed about the death with cooler. They do admit that the Officer did enquire about cause of death. Any denial of the statement by a subsequent affidavit cannot *ipso facto* be held sufficient to disown the earlier statement got recorded by the said persons. Moreover, the petitioners or even the witnesses have not disputed that the officials of the respondent-department had visited the village on the date and certain persons have got their statements recorded. The very fact that the persons whose statements were recorded are also residents of the said village and subsequent affidavits have been filed by the petitioner alongwith the present writ petition as Annexure P-12 and P-13 clearly show that an enquiry was carried out by the officials of the respondent-Marketing Board after visiting the village and not by sitting in their office as it would not have been possible for the respondent-authorities to make such statements or to know about residents of the specific village. They had no motive against the petitioners or any reason to deny the claim. Under any circumstance, this would give rise to disputed questions of fact. It cannot thus be said to be a case which falls squarely within the parameters of the scheme entitling the petitioner to claim the benefits admissible thereunder. The order passed by the authorities thus cannot be said to be unsustainable or perverse or based on no evidence.



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19. I find that there is no illegality or perversity in the order passed by the authorities. The same are accordingly upheld. The writ petition is accordingly dismissed.

(VINOD S. BHARDWAJ)
JUDGE

JULY 10, 2024
Vishal Sharma

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No