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

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CWP-21987-2016(O&M)
Date of decision: 04.09.2024

Kishan Chand

...Petitioner

Versus

Chief Administrator, Haryana State
Agricultural Marketing Board & another

...Respondents

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

Present : Mr. Randhir Singh Hooda, Advocate
for the petitioner.

Mr. Deepak Balyan, Advocate and
Mr. Vicky Chauhan, Advocate
for the respondents.

Mr. Pankaj Mulwani, DAG, Haryana.

VINOD S. BHARDWAJ, J. (Oral)

Challenge in the present petition is to order dated 09.03.2015 (Annexure P-13) passed by Secretary and Executing Officer Market Committee, Sohna, whereby the claim of the petitioner for financial assistance in terms of Chief Minister Farmer and Agricultural Labour Life Protection Scheme, 2013, on account of death of his wife on 01.09.2014 due to snake bite while carrying out agricultural work, has been declined. The challenge is also raised to order dated 31.08.2016 (Annexure P-14) whereby the appellate authority had dismissed the appeal preferred by the petitioner.

Learned counsel for the petitioner contends that the petitioner is a resident of Village Alipur and earns his livelihood by carrying out an

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occupation as a farmer. His wife Santra used to participate in the agriculture works with the petitioner. He contends that Santra died on 01.09.2014 due to snake bite while she was carrying out agricultural work. Upon the incident of snake bite, she was immediately taken to General Hospital at Sohna, for treatment against registration No.8282, where diagnosis carried out by the doctor was of snake bite. She was referred to the General Hospital, Gurgaon, being a serious case for treatment where her Central Registration No.25735 was recorded on the same day. The General Hospital, Gurgaon, also recorded its diagnosis as snake bite and referred her to the Higher Centre AIIMS/Safdarjung Hospital, Delhi, for better treatment. While on way to the Safdarjung Hospital, petitioner's wife Santra died due to the spread of poison in her body. It is also submitted that the Medical Officer of the General Hospital, Gurgaon specifically certified about the treatment being extended to Santra vide OPD registration No.25735 (as per Annexure P-6), which is also corroborated by the OPD slip and establishes that Santra had in fact died as a result of the snake bite. He contends that the petitioner being an illiterate person was not aware of the aforesaid ex-gratia financial assistance scheme and that on making apprised by the Sarpanch about the same, an application for the grant of benefits was submitted by the petitioner on 09.09.2014 i.e. within a period of nine days of the occurrence of incident. The Gram Panchayat duly verified the cause of death of Santra being on account of snake bite and at the time of bringing chara from the fields as a labour. It is, however, contended that the respondent-Secretary-cum-Executing Officer, Market Committee, Sohna, declined the claim of the petitioner by observing as



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under:-

“Subject:- Regarding not granting financial assistance to Smt. Santra Devi, w/o Sh. Kishan Chand concerning being victim of Agriculture related accident.

On the aforesaid subject you are informed that you were asked to supply documents such as Postmortem or FIR etc. with regarding to your application for grant of financial assistance. You could not produce those documents to office of Market Committee, Sohna. Therefore, as per instructions, due to non supplying of documents, your case has been declined by Administrator Market Committee, Sohna on 20.02.2015.

*Sd/-
Secretary cum E.O.,
Market Committe, Sohna.”*

Aggrieved thereof, an appeal was preferred before the Chief Administrator, Haryana State Agricultural Marketing Board, Panchkula. The said appeal was also dismissed by the appellate authority vide order dated 31.08.2016. The operative part of the said order reads thus:-

“An appeal under clause 9 of the Yojana was filed by the appellant Kishan Chand. The case was fixed for 12-08-2016 for arguments. A notice in this regard was served to both the parties. But, the appellant did not come present. Because of his non-presence, the appeal was liable to be dismissed in default, but in the interest of Justice the appeal was considered on merits with the assistance of EO cum Secretary, Market Committee Sohna. As per statements, it is revealed that the claim of the appellant is that his wife namely Santra Devi was cutting cattle feed from the fields on dated 01-09-2014, suddenly she suffered a snake bite, which rendered her severe pain and consequently she got fainted. Finally, she succumbed to the injury while she was being shifted to



AIIMS/Sufdurjang Delhi. It is further noticed that the post-mortem of his wife was not conducted. The Secretary, Market Committee Sohna argued that it is quite clear in the scheme/Yojana that in case of death, a copy of DDR and the post-mortem report is mandatory. Therefore the claim of the appellant was rejected and the order of the market committee is legal and valid and the appeal may be dismissed.

The report of the Secretary Market Committee Sohna was also perused. I have also carefully analysed the relevant papers on the file and considered the submissions made by both the parties. Clause 8 (C) of the Yojana clearly prescribes that "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".

As a sequel of the foregoing discussion and facts, it is clear that the present case is not covered under the Yojana. In these facts and circumstances, finding no merit in the claim of the appellant, the appeal of the appellant is dismissed."

By referring to above, learned counsel for the petitioner argues that the claim of the petitioner has been declined solely on account of failure of the petitioner to produce copy of the postmortem report as well as DDR in relation to the occurrence of the incident.

He refers to the instructions (Annexure P-12) in relation to the consideration of claim of persons victim of accident caused in relation to agriculture, where Clause 8 prescribes thus:-

"8. In the case of death:

(i) Copy of FIR



(ii) Copy of Postmortem

(iii) Death Certificate

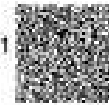
* In peculiar circumstances resolution passed by Panchayat/ Municipality death may be verified by concerned Sub Divisional Officer (Civil) and copy of resolution may be submitted.”

(emphasis applied)

It is, thus, submitted that the above-said instructions specifically provides that in some peculiar circumstances, a resolution passed by the Gram Panchayat/Municipality may also be considered as a sufficient proof with respect to claims of a victim of accident, subject to verification by the concerned Sub Divisional Officer (Civil). It is submitted that the respondents have chosen not to advert to the aforesaid clause which is in the nature of an exception to the document stipulated in Clause 8 (i) to (iii) and have arbitrarily and mechanically declined the claim to the petitioner.

Learned counsel for the respondents reiterates his submissions as extracted in the orders by the authorities. He contends that necessary documentary proof required to process the case and claim of the petitioner having not been furnished, the eligibility conditions for grant of benefits under the said scheme could not be ascertained. The claim of the petitioner was accordingly rightly declined by the respondents. He further submits that in the absence of the postmortem report/record of any DDR, it cannot be ascertained as to whether the death actually occurred on account of a snake bite or not as conveyed by the petitioner or not.

Learned counsel for respondents No.1 and 2 contends that as

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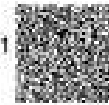
the scheme was floated by the Haryana State Agricultural Marketing Board, hence they have no contesting interest in the matter.

No other arguments have been addressed.

I have heard learned counsel for the respective parties and have gone through the documents appended along with the present petition.

It is not in dispute that postmortem report as well as the DDR in relation to the occurrence and for determination of the cause of death has not been adduced by the petitioner. However, at the same time, it cannot be lost sight of that the aforesaid documents are required solely to ascertain whether death had occurred in the manner and by the cause as claimed or not. The contemporaneous evidence pertaining to immediate treatment extended to the deceased firstly at General Hospital, Sohna and thereafter, at the General Hospital, Gurgaon, clearly shows the diagnosis of Santra to be a case of snake bite and that the treatment was being extended to her for the same and the consequences enumerating therefrom. The validity of the said documents has not been disputed by the respondents. Hence, on the basis of contemporaneous undisputed documentary evidence, generated during the normal course of business and by different agencies and instrumentalities of the State, it can safely be said that version of the petitioner is correct with respect to the cause of the death and his claim ought not to be denied solely on account of his failure to produce the postmortem report.

The object of the scheme being benevolent, there cannot be any hardbound or straight jacket formula about furnishing documents to establish the cause and in the event of failure to furnish the same, every claim has to be declined. If other enabling documents establish the claim

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and the mode/manner in which the death may have occurred and establish that the event is covered in the abovesaid scheme, the claim ought to be considered. On going through the object of the scheme, the respondents should adopt a liberal approach and grant the benefit which is admissible to a family.

Besides the instructions issued by the Government and attached as Annexure P-12 extracted above also provides for such an exigency. It is not a case where there is no provision for verification of a claim lodged and could not be done once the elected representatives of the Municipality/ Gram Panchayat already supported the claim. The claim so made could thus always be verified by the Sub Divisional Officer (Civil). Once a mechanism has already been prescribed to cater to such an exigency, I do not find any reason as to why the respondent-department chose not to advert to the said mechanism, which could enable them to ascertain the claim lodged by the petitioner as well as the resolution passed.

The incident in question took place in the year 2014 and a period of ten years had lapsed since then. Besides, there is no challenge or dispute to the averments contained in the resolution and recommendation of the elected representatives.

Under the given circumstances, I do not deem it appropriate to relegate the petitioner to another round of litigation where the resolution passed by the Gram Panchayat is being subjected to verification. In the absence of any dispute raised to the resolution by the respondents and also taking into consideration the contemporaneous evidence of the immediate medical treatment extended and the diagnosis conducted by the Government

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Medical Officers, I am of the opinion that death of Santra had taken place on account of snake bite and during the course of doing agricultural operation, she would thus be covered under the benevolent scheme of 2013.

The present writ petition is allowed. The orders dated 09.03.2015 (Annexure P-13) and 31.08.2016 (Annexure P-14) are set aside accordingly. The Market Committee, Sohna is directed to release the compensation to the petitioner under the said scheme within a period of two months from the date of receipt of certified copy of this order.

In the event of the compensation not being released within a period of two months from the date of receipt of certified copy of this order, the petitioner would be entitled to interest @ 6% per annum from the date of filing of the present petition.

Allowed in terms as aforesaid.

04.09.2024
monika

(VINOD S. BHARDWAJ)
JUDGE

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