
(2009) 08 MP CK 0079
In the Madhya Pradesh High Court

Badri Nath

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 06-08-2009

Acts Referred:

Citation : (2009) ILR (MP) 39 : (2009) 5 MPHT 148 : (2009) 4 MPLJ 131

Hon'ble Judges : Ravi Shankar Jha, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

R.S. Jha, J.

The petitioner has filed this petition being aggrieved by communication dated 17-2-2005 whereby the petitioner has been informed that he is not entitled to any sum of money as compensation under the National Family Scheme on account of the death of his son which occurred due to drowning.

The brief facts leading to the filing of the petition, according to the petitioner, are that the petitioner's son Santosh who used to live with his maternal grandmother in Village Umaria Isha in District Chhindwara, died on account of drowning in the Mayur Jalashay in the forest area of Village Umariya Isha on 31-8-2004. The body was picked up and after post-mortem it was found that the son of the petitioner died by drowning. The petitioner applied for compensation on account of the death of his son on 28-9-2004 before the Sub Divisional Officer and his application claiming compensation was considered by the Collector, Chhindwara. On 29-1-2005 the petitioner's application claiming compensation under Revenue Book Circular, Part VI, Clause 4 was rejected on account of the fact that there is no provision in the RBC for giving compensation for death on account of drowning. Thereafter the petitioner's case was forwarded to the Collector, Hoshangabad for considering his case for grant of relief under the National Family Scheme. The petitioner's case was examined by the Collector, Hoshangabad and ultimately his application was rejected by the impugned

communication dated 17-2-2005 on the ground that any benefit under the Scheme is available to the head of the family and the person whose name is included in the list of Below Poverty Line (BPL) persons and as the petitioner's son was neither the head of the family nor was his name included in the BPL list, the petitioner was not entitled to any compensation on account of his death by drowning.

The learned Counsel for the petitioner submits that the petitioner is, in any case, entitled to compensation on account of the death of his son under the provisions of RBC as the petitioner's son has died on account of natural calamity and under the National Family Scheme. The petitioner has also filed a copy of the Ration Card issued under the National Family Scheme in support of the contention that the petitioner is enlisted in the BPL list and in the list of his family members the name of his son Santosh is enlisted. In the petition the petitioner seeks a direction to the respondent/authorities to pay compensation to the petitioner on account of the death of his son.

The respondents have filed two returns and have slated that there is no provisions for grant of compensation on account of the death by drowning in a lake/reservoir due to ones own negligence. It is stated that as per the relevant clauses of the Revenue Book Circular the petitioner is also disqualified to claim any compensation on account of the death of his son as the aforesaid Circular only provides for giving compensation in respect of loss, damage or death caused by a natural calamity, which has subsequently been defined in Part VI, Para 4, Clause (7) of the RBC. It is submitted that death by drowning on account of ones own fault is not included in the natural calamity and that the petitioner's application has rightly been rejected. It is submitted that the provision of the National Family Scheme provides for giving financial assistance only to the person who is registered and included in the list of Below Poverty Line and is the head of the family and as the petitioner's son was neither a head of the family nor the person enlisted in the BPL list, the petitioner is not entitled to any sum of money by way of compensation on account of the death of his son Santosh by drowning.

I have heard the learned Counsel for the parties at length and also perused the averments in the petition and the documents filed along with the pleadings. From a perusal of the same, it is apparent that the petitioner's son died on account of drowning in a forest reservoir and though the memo prepared by the Police Authorities indicates that he drowned while swimming in the reservoir the aforesaid fact is disputed. It is also clear and is in fact an admitted fact that death by drowning on account of one's own negligence does not fall within the purview of the natural calamity as enumerated in Clause (7) of the Revenue Book Circular which has been quoted by the respondents in the return. It is also apparent from a perusal of the return filed by the respondents that the reservoir is within a notified forest area and that in accordance with the provisions of the M.P. Grazing Rules, 1986, grazing in the notified forest area without licence is

prohibited in spite of which the petitioner's son, according to the own statement, was grazing goats in the prohibited forest area when the said incident occurred. It is also apparent from Annexure P-8, filed along with the petition, that the petitioner's claim under the Revenue Book Circular was rejected by the Joint Collector, Chhindwara by order dated 26-1-2005 and this order has not been challenged by the petitioner and, therefore, has become final. It is further apparent that while rejecting the case of the petitioner for grant of compensation under the RBC, the Joint Collector, Chhindwara referred the matter to the Collector, Hoshangabad for considering the petitioner's case under the National Family Scheme which has been rejected by the impugned communication dated 17-2-2005 on ground that the deceased was neither included in the list of Below Poverty Line nor was he the head or the bread earner of the family disentitling the petitioner to any compensation. Nothing has been brought on record and produced before this Court to establish to the contrary or to prove that the petitioner is entitled to compensation under any Statutory Provisions, Rules or Instructions. The claim of the petitioner is in fact based on the provisions of the Revenue Book Circular from a perusal of which it is clear that financial assistance under the Circular is available only in the case of loss, damage or death on account of the natural calamity which has been defined to include the natural calamity like heavy rains, hail, cold wave, loss caused by inset, flood, storm, earth quake and fire, and therefore, the petitioner's application claiming compensation under the Circular has rightly been rejected as his son has not died as a result of any of the above.

It is submitted by the learned Counsel for the petitioner that the definition given in the Circular is not exhaustive but is illustrative and the incident of drowning of the petitioner's son should also be included in the definition of the natural calamity and compensation should be granted. I am unable to agree with the learned Counsel for the petitioner. By no stretch of imagination can drowning on account of ones own negligence be included in the definition of the natural calamity nor can such an incident be said to be of the same pieces as a natural calamity as defined in the definition clause so as to persuading this Court to treat the incident of the death of the petitioner's son as a natural calamity.

In view of the aforesaid facts and circumstances, I do not find any legal infirmity and material irregularity in the impugned communication dated 17-2-2005 rejecting the petitioner's application claiming benefit under the National Family Scheme nor do I find any illegality or material irregularity in rejecting the petitioner's claim under the provisions of the RBC.

The petition filed by the petitioner is accordingly dismissed. In view of the peculiar facts and circumstances of the present case, there shall be no order as to costs.