

(2020) 02 J&K CK 0010

In the Jammu And Kashmir High Court

Case No : Public Interest Litigation No. 12 Of 2014

Deepika Singh Rajawat

APPELLANT

Vs

State Of J&K

RESPONDENT

Date of Decision : 05-02-2020

Acts Referred:

Citation : (2020) 02 J&K CK 0010

Hon'ble Judges : Rajesh Bindal, J

Bench : Single Bench

Advocate : Deepika Singh Rajawat, Vishal Sharma

Final Decision : Disposed Of

Judgement

1. This petition was filed on 9th April, 2014 seeking a direction to the Deputy Commissioner, Poonch, Divisional Commissioner, Jammu and Ministry of

Defence, Government of India to consider the demands of mine blast victims of Poonch and its adjoining areas. The petitioner sought a direction to

make a survey to find out the actual number of mine blast victims and disbursal of compensation in the pending cases. A further direction was sought

to the respondents to formulate a policy to rehabilitate them by shifting them to safer places from the mine ridden areas with immediate effect.

2. Keeping in view the importance of the matter, the petition was registered as a writ petition in the public interest. A series of detailed orders were passed.

3. In response thereto, the respondents have filed objections as well as status reports dated 11th August, 2014, 20th November, 2014 and 29th

December, 2014. Additional affidavits stand filed by the Union of India dated 11th February, 2015 and 17th March, 2015. In addition to his status

reports dated 11th August, 2014 and 29th December, 2014, the respondent No. 4 i.e. the Deputy Commissioner, Poonch has filed status report dated 28th September, 2015.

4. We find that on 6th May, 2016, before this Court the petitioner, who is a practicing lawyer, had stated that the victims of land mines belong to far flung areas of District Poonch and adjoining Districts and she had sought time to collect particulars of all the victims as she had to undertake journey to such areas. For this reason the petitioner had not been able to come up with details in time. The petitioner claimed to have collected all necessary particulars and proposed to place such particulars on record within two weeks.

We may note that despite almost five years having lapsed since the passing of the order on 6th May, 2016, nothing has come on record from the side of the petitioner.

5. We find from the status reports, which have been filed by the respondents that a sensitive and prompt response has been given to mitigate the anguish of the victims of mine blasts. The respondents have placed on record â?? Guidelines For Ex-gratia Compensation for The Land Mine

Causalitiesâ? dated 10th January, 2003, whereby the respondents have laid down the compensation package which is required to be paid to the

victims; the procedure to be followed for grant of the ex-gratia compensation; payment modalities and even interim relief has been postulated. This

policy was to take effect with retrospective effect from 10th January, 2001.

6. In the status report dated 17th March, 2015 (page 131 of the record), the Union of India has disclosed the details of the cases which have been

processed. For expediency, we extract paragraph 6 of this status report, which reads as follows:

â?? That it is submitted that total number of cases since 10.12.2001 are 92 in which compensation has been paid in 45 cases and number of

cases under progress are 47. Further, that out of these 47 cases, 10 cases including 09 recently processed have been forwarded to Army

HQ for onward submission to Min of Defence, New Delhi and the cheque in favour of the beneficiary would be disbursed immediately on

receipt of sanction from the Ministry of Defence on Top Most Priority. The state of remaining 37 cases are that, firstly in 21 cases, DC

Poonch/Rajouri are yet to complete their inquiry Report and yet to submit the

same to Divisional Commissioner Jammu whereafter Army

authorities would be able to further process the case for sanction from MoD. Similarly, as regards the remaining 16 cases, no information

has been supplied by the civil administration i.e. DC Poonch/ DC Rajouri for which the Army authorities have issued numerous reminders to

them.â?? (sic)

7. So far as the response from the authorities of UT of J&K (the then State) is concerned, in the status report filed by the respondent No. 4 on 28th

September, 2015, the following disclosures have been made:

â??2. That the para No. 2 is false, hence denied. The true facts that this office had already constituted the committee vide No. DCR/Rel/734-

36 dated 14.09.2012 and constituted a fresh committee vide No. 388-93 dated 19.08.2015.

3. That para No. 3 is false, hence denied. The Committee has already identified the 43 land mine victims. The empower committee has

cleared the 09 cases in board proceeding vide No. DCP/Rel/2015/162-65 dated 06.05.2015 and cleared the 12 cases in board proceeding

vide No. DCP/Rel/2015/308-15 dated 31.07.2015 (copies of list and order enclosed as Annexure A, B and C.

4. That para No. 4 is false, hence denied. The true fact that the committee identified the land mine victims from time to time and cleared in

the board proceedings and recommended to the Army authorities for consideration.

5. That para Nos. 5 & 6 are false, hence denied. The committee constituted as per the norms and identified the land mine victims from time to

time. The committee has already constituted by the respondent and issued the instruction for stream lining of procedure of payment of ex-

gratia compensation to land mine victims (dead/injured) of district Poonch vide No. DCP/1316-29 dated 14.01.2015 (copy of the order is

enclosed as Annexure-D).â?? (sic)

8. Enclosures to this status report give full details of the victims of mine blasts; the Board Proceedings of the mine blast cases in respect of payment

of ex-gratia compensation.

9. We thus find that the authorities of the Union Territory of J&K have also been vigilant in respect of the procedure, which was to be followed for

payment of the ex-gratia compensation. We have on record the order dated 14th January 2015 (page 156) passed by the District Magistrate, Poonch

directing the streamlining of procedure of payment of ex-gratia compensation to land mine victims (dead/injured of district Poonch)

10. A perusal of the record as well as the above narration thus manifests the sensitivity of the authorities to the plight of land mine victims; their need

for immediate relief and compensation as also the sanctity of the procedure which is to be followed for disbursement of the compensation.

11. We, however, take note of the fact that the guidelines placed before us stand formulated in the year, 2003. More than sixteen years have passed

since then. We direct the respondent No. 6 to consider these Guidelines afresh and, if necessary, modify/amend the same, especially in terms of the

ex-gratia relief which is prescribed as also the procedure which is to be followed.

12. In view of the above, no further order is required. The proceedings in this Public Interest Litigation are hereby closed.