
(2000) 09 OHC CK 0006
In the Orissa High Court
Case No : O.J.C. No. 4168 of 2000

Dipali Mandal

APPELLANT

Vs

State of Orissa and Others

RESPONDENT

Date of Decision : 15-09-2000

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2000) 90 CLT 570 : (2000) 2 OLR 438

Hon'ble Judges : P. Ray, J

Bench : Single Bench

Advocate : P.K. Jena, P.C. Muduli, H.S. Satpathy, A.K. Mohapatra, Rini Rath and D. Sethi, for the Appellant; A.G. and M.K. Mohanty, A.G.A, for the Respondent

Judgement

P. Ray, J.—The writ petitioner has claimed that her husband Biren Mandal was seriously injured on the date of Super cyclone and ultimately died of the said injury suffered during super cyclone.

2. Admittedly the State Government has declared that an ex gratia assistance of Rs. 75,000/- in case of death in the super cyclone will be given to the near relations of those who died in the super cyclone. The petitioner submitted her claim before the authorities for the said ex gratia assistance on account of death of her husband. It is stated that the petitioner's claim was not considered on the ground that the petitioner's husband did not die on October 29 or 30, 1999, i.e. the dates of the super cyclone.

3. It appears that the Additional District Magistrate, Jagatsihghpur sought for a clarification whether the ex gratia assistance would be available to the persons who received injuries in super cyclone on October 29/30, 1999 and subsequently died of the said injury. The State Government has not yet issued any clarification. In spite of service of notice of this case and several adjournments the State Government has also not given any instruction to State counsel about its stand.

4. The state Govt. itself has announced ex gratia financial assistance for those who died in the super cyclone. Those who sustained injuries on the days of the super cyclone and subsequently died of the said injury are also persons who died due to the super cyclone. There is no intelligible distinction and difference between these two groups of persons. There is no justification for treating these two groups differently and excluding those who were seriously injured on the date of super cyclone but died subsequently due to the said injury. Exclusion of the said group is ex facie contrary to the object and purpose of grant of such ex gratia assistance. Of course, it is for the claimants to establish with cogent materials and supporting evidence that the deceased suffered injury in the super cyclone on the dates of the super cyclone and that he died of the said injury. The State Govt. is also at liberty to lay down appropriate procedure for establishment of the said two ingredients and to set up a suitable mechanism for necessary determination but it cannot exclude the said group from the benefit of the Scheme.

5. For the persons aforesaid the Collector, Jagatsinghpur is directed to consider the claim of the petitioner and if it is established on enquiry or on other available materials produced or evidence adduced by the claimants that the petitioner's husband was injured in the super cyclone during October 29/30 of 1999 and died due to the said injury, the Collector will release the ex gratia assistance amount as announced by the State Government.

The writ application is accordingly disposed of.