
(2010) 01 MP CK 0009
In the Madhya Pradesh High Court
Case No : Writ Petition No. 5187 of 2008

Gurucharan Singh

APPELLANT

Vs

State of M.P. and another

RESPONDENT

Date of Decision : 19-01-2010

Acts Referred:

Citation : (2010) 2 MPLJ 268

Hon'ble Judges : S.C. Sharma, J

Bench : Single Bench

Advocate : N.K. Gupta, for the Appellant; Smt. Nidhi Patankar, Dy. Government Advocate, for the Respondent

Final Decision : Allowed

Judgement

S.C. Sharma, J.

The petitioner before this Court, a riot victim of 1984 riots has filed this present writ petition and prayed for issuance of appropriate writ or order or direction directing the respondents for grant, of compensation as per the scheme framed earlier by the State Government as well as the Central Government. The petitioner has also prayed for quashing the impugned order passed by the Deputy Collector, Gwalior dated 2nd September, 2008 by which his request for grant of compensation has been turned down. The contention of the petitioner is that he belongs to a sikh community and prior to 1984 was engaged in the business of selling liquor and was owner of a wine shop situated at Phool Bagh, Gwalior. The petitioner has stated before this Court that a riot took place in the year 1984 and he has suffered a loss of Rs.4,08,525/-. The petitioner has also stated that the loss suffered by him at the relevant point of time was estimated by the Excise department, State of Madhya Pradesh. The petitioner has further stated that a sum of Rs. 2,000/- was offered to him as compensation, however, he has refused to accept the same as the loss suffered by him was much more than the sum offered to him by way of compensation by the respondents/ authorities. The petitioner has also stated that a certificate was issued by the

Collector, District Gwalior on 25th May, 1987 wherein it was certified by the Collector that the petitioner is a riot victim. The aforesaid certificate has been enclosed as Annexure P/3 dated 25th May, 1987. The petitioner has further stated that the matter relating to payment of compensation to riot victims was considered by this Court in W.P. No. 2134 of 2001, S. S. Ahulwalia vs. Union of India and others and a Division Bench of this Court vide order dated 24th January, 2006 has directed the State Government to assess the loss suffered by the riot victims and to pay the compensation commensurate with the loss suffered by the petitioners therein/riot victims. The petitioner has further stated that a representation was preferred by him on 1st August, 2008, however, by an order dated 2nd September, 2008 (Annexure P/I), the same has been turned down by the respondents on the ground that earlier the petitioner has not received the compensation awarded by the State Government and, therefore, in the light of the subsequent executive instructions issued by the Government of India, only those persons who have earlier received the compensation are entitled for the enhanced compensation and, therefore, the petitioner is not entitled for the enhanced compensation. The learned counsel for the petitioner has argued before this Court that the petitioner has suffered loss in the riots of 1984 and the compensation has not been assessed by the respondents at any point of time and, therefore, the respondents be directed to pay the compensation after calculating the compensation in accordance with law.

A reply has been filed by the respondents / State Government and it has been stated in the return that after 1984 riots, a list was prepared by the District Collector, Gwalior in respect of the riots victims and the list does not include the name of the petitioner. The respondents have further stated that the list includes those persons who have received the compensation and the name of the petitioner does not find place in the aforesaid list. The respondents have further stated that the case of the petitioner was considered and he was offered a sum of Rs.2,000/-, however, he has refused to accept the same. The respondents have further stated that the Central Government has framed a policy for grant of benefit to the riot victims of 1984 and the policy provides that no new claim shall be accepted and only in those cases of persons who have received the compensation earlier shall be considered for enhancement of compensation. The respondents have also stated that as the petitioner has not received the compensation earlier and, therefore, he is certainly not entitled for the enhancement of the compensation, keeping in view the policy of the Government of India dated 16th January, 2006. The respondents have further stated that the impugned order has been rightly passed by them keeping in view the policy of the Government of India dated 16th January, 2006 as well as the policy of the State Government dated 16th February, 2006.

Heard learned counsel for the parties at length and perused the record.

In the present case, the petitioner before this Court as stated by him has suffered financial loss on account of the riots which took place in the year 1984.

It is also an admitted fact that a sum of Rs.2,000/- was offered to the petitioner by the respondents towards compensation, however, the petitioner has not accepted the same as it was a meagre amount as compared to the loss suffered by the petitioner. The respondents while passing the impugned order have rejected the claim of the petitioner for enhancement of compensation in respect of loss of property on the ground that as per clause (iv) of the policy issued by the Government of India dated 16th January, 2006, only those claimants who have earlier received compensation at some point of time are entitled for enhancement of compensation. The contention of the respondents is that as the petitioner has refused the compensation earlier at some point of time and his name was also not included in the list prepared by the Collector vide Annexure R/I and, therefore, the case of the petitioner cannot be considered for grant of enhanced compensation. It is pertinent to note that two writ petitions, i.e., W.P. No. 2134 of 2001, S. S. Ahulwalia vs. Union of India and others and M.P. No. 1045 of 1992, Sardar Kuldeep Singh and others vs. Union of India and others were decided by a common order by a Division Bench of this Court at the Principal Seat and it was held as under :

Regarding loss of properties, the assessment of loss of property has to be made by the Collector of the concerned district in which the loss of property has taken place in the reply before the Supreme Court on behalf of the State of M.P., it was stated that during 1984 riots there was no loss of properties worth Rs. 11.05 crores. Thus, the authorities must have maintained some records with regard to the loss of properties. Any person claiming that he has suffered loss of property, movable or immovable, in the 1984 riots, may make a prayer before the Collector of the concerned district who will thereafter make the assessment of the loss suffered by him if any and award the compensation commensurate with such loss within three months from the date of the claim.

The riots had taken place as far back as in 1984. Hence, the compensation was really due for loss of life, permanent disablement, injuries and loss of property in 1984-85. Such compensation having not been paid or having not been paid in full must therefore carry some interest. Considering all aspects of the matter, we direct that on the amount that has not been paid to the claimants, a lump-sum interest of 40% will be paid to the persons to whom it is due. In case the amounts are not paid by 30th April, 2006, or within three months from the date of determination of the compensation by the Collector on the claim of loss of property, the unpaid compensation shall carry interest at 6% per annum.

The petitioner has already been offered a sum of Rs.2,000/- by the District Administration and the same has been categorically admitted by the respondents in the return. The contention of the respondents is that the name of the petitioner does not find place in the list prepared by them as contained in Annexure R/I which is a list of the riot victims who have received the compensation at some point of time. The list as contained in Annexure R/I certainly does not include the name of the petitioner as he has refused to receive

the meagre compensation of Rs.2,000/- and, therefore, it does not mean that merely because petitioner has earlier refused the compensation, he is not a riot victim as per the policy issued by the Central Government dated 16th January, 2006 read with the policy framed by the State Government dated 16th February, 2006, which provides for compensation. Clause (v) of the policy dated 16th January, 2006 issued by the Central Government, provides for grant of compensation in respect of loss of property and clause (iv) thereof provides that fresh names shall not be considered for enhancement of compensation and cases of those who have earlier received the compensation from the Government shall be re-considered by the authorities. Clause (iv) of the policy issued by the Central Government dated 16th January, 2006 reads as under :

In the present case, merely because the petitioner has earlier refused the compensation does not mean that he is not entitled for the compensation for loss of his property. The respondent / State in its wisdom has earlier held that the petitioner is eligible for the compensation being a victim of 1984 riots as admitted in the return and was offered a sum of Rs.2,000/- and, therefore, for the loss of the property also proper assessment has to be done, keeping in view the policy issued by the Central Government dated 16th January, 2006 read with policy of the State Government dated 16th February, 2006 by the respondent-District Collector, Gwalior. The respondents could not have rejected the claim of the petitioner by passing the impugned order dated 2nd September, 2008 on the ground that he has earlier not received the compensation from the State Government and that does not mean that the petitioner is not entitled for compensation. It is a case where the petitioner is entitled for the compensation from the respondents. In the present case, the petitioner was offered a sum of Rs. 2,000/- at some point of time, however, the petitioner has refused to accept the same being a meagre compensation and it cannot be a ground for not assessing the compensation to be awarded to the petitioner. Resultantly, the writ petition is allowed, the respondents are directed to assess the compensation taking into account the loss suffered by the petitioner in 1984 riots. It is needless to mention that the record of the Excise department shall also be looked into while calculating the loss suffered by the petitioner. The exercise of assessing the loss suffered by the petitioner and making payment of the compensation shall be concluded keeping in view the judgment delivered by a Division Bench of this Court in the case of S. S. Ahulwalia (supra) read with the executive instructions issued by the Central Government dated 16th January, 2006 as well as the State Government dated 16th February, 2006, within a period of six months from the date of receipt of a certified copy of this order. It is needless to mention that the petitioner shall also be free to produce all the relevant record before the authorities enabling them to arrive at a proper conclusion in the matter of award of compensation to the petitioner.

The impugned order, Annexure P/I dated 2nd September, 2008 is quashed. Resultantly, the writ petition is allowed and disposed of with the aforesaid.