

(2015) 12 AHC CK 0069
In the Allahabad High Court
Case No : Writ - C No. 68689 of 2014

Ravendra Kumar and Others

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 04-12-2015

Acts Referred:

Citation : (2016) 1 ADJ 678

Hon'ble Judges : Dinesh Maheshwari and S.B. Singh, JJ.

Bench : Division Bench

Advocate : Rajesh Sharma, for the Appellant

Final Decision : Partly Allowed

Judgement

Dinesh Maheshwari, J.—The present petition is brought before this Court by the petitioners who are said to have lost their parents in the infamous disaster that struck the State of Uttarakhand in the month of June 2013. The grievance of the petitioners is against rejection of their claim for compensation under Krishak Durghatna Beema Yojna [the Scheme of the Government for providing insurance cover to the agriculturists - hereinafter referred to as "the Scheme"] on the ground that they had filed the claim beyond the stipulated time prescribed in the Scheme.

2. The relevant background aspects of the matter could be taken note of as follows: The petitioners are the sons of Sri Braj Bhushan (father) and Smt. Manorama Devi (mother). The parents of the petitioners are said to have gone for pilgrimage in the State of Uttarakhand in the month of June 2013 but were caught in the disaster that struck on 16.06.2013. The Government of Uttarakhand issued Death Certificates dated 28.11.2013 certifying the demise of the parents of the petitioners on 16.06.2013 at Shri Kedarnath. The petitioners made an application on 01.07.2014 before the Area Lekhpal making claim under the aforesaid Scheme of the Government because of the demise of their parents in such disaster. It appears that there had been certain deficiencies in the

application which were removed by the petitioners on 14.08.2014. The claim so made by the petitioners was ultimately considered by the concerned District Level Committee constituted under the Scheme on 09.09.2014. The Committee, chaired by the District Magistrate, Aligarh, rejected the claim of the petitioners only on the ground that the same was made beyond the prescribed period. The decisions of the Committee on the claim of the petitioners in relation to the demise of their mother and father finds mention in paragraphs 23 and 24 of the order impugned respectively, which read as under:-

3. The petitioners submit that they were not informed of the aforesaid decision dated 09.09.2014 and came to know about the same only after seeking information under the Right to Information Act in the month of November, 2014. It is contended on behalf of the petitioners that the respondents have acted illegally in rejecting their claim for compensation on the alleged ground of delay without considering that the Death Certificates were issued by the Government of Uttarakhand only on 28.11.2013 and counting from this date, the claim was well within the prescribed time of one year. It is submitted that the counting of limitation in the present case from the date of demise of the parents of the petitioners remains illegal and unjustified.

4. Per contra, it is maintained on behalf of the respondents that as per guidelines provided under the Scheme, such a claim could be instituted within a period of 4 months and in the appropriate case, the District Magistrate is empowered to extend the time limit to one year. According to the respondents, in the present case, the defective and incomplete application was filed on 01.07.2014 and the deficiencies were removed only on 14.08.2014; and thereby, the claim of the petitioners came to be instituted about 2 months beyond the period of one year and thus, the District Magistrate could not have condoned the delay in this matter. The respondents have referred to and relied upon clause 11(1) of the Scheme as contained in the Government Order dated 22.10.2012. For ready reference, this clause 11(1) is also reproduced as under:-

5. The petitioners have supplemented their averments in the rejoinder affidavit with the submissions that demise of their parents was not conclusively known to them until issuance of Death Certificates dated 28.11.2013 by the Government of Uttarakhand. The petitioners have further submitted that even after receiving of the Death Certificates, they made efforts to obtain the relevant documents concerning final reports from the State of Uttarakhand and got the same only on 28.06.2014 and immediately thereafter, made the application for claim on 01.07.2014. According to the petitioners, earlier, only one person had signed the application as advised, but upon raising of objection by the Naib-Tahsildar, the alleged deficiency was removed on 14.08.2014. Thus, according to the petitioners, delay, if any, was beyond their control and was bona fide. It is also submitted that the Committee has not considered the ground realities and has acted illegally in not relaxing the alleged limitation in the present case.

6. After having given thoughtful consideration to the rival stands and on perusal

of the record, we are clearly of the view that the impugned decision rejecting the claim of the petitioners only on the ground of delay cannot be sustained.

7. Noticeable it is in the first place that the time period as prescribed in the aforesaid clause 11(1) of the Scheme, i.e., of 4 months and extendable upto 1 year, is silent on the crucial aspect of the starting point from which the time would begin to run. The Scheme does not say in express terms that the starting point would always be from the date of death or injury for the purpose of maintaining the claim thereunder. In the absence of any such specification in the Scheme, it cannot be assumed that invariably and in every case, the starting point of the time period is the date of death or injury. This being the position, in our view, the starting point has to be suitably taken so as to serve the cause of justice. Though, ordinarily, the starting point could be from the date of death or injury, but in the peculiar case of the present nature, where the factum of demise of their parents was not known to the petitioners on the fateful day itself and came to be conclusively certified by the Government of Uttarakhand only on 28.11.2013, the starting point of limitation, for the purpose of the Scheme in question, could be reasonably taken as the date of issuance of Death Certificates without causing prejudice to any person.

8. The peculiar facts and surrounding factors of the present case are that though the disaster struck on 16.06.2013 in the State of Uttarakhand and their parents went missing, but the petitioners could not have readily assumed on the given date itself that their parents have perished. It was only upon receiving of the Death Certificates dated 28.11.2013 and not finding their parents for all this time that the petitioners could have accepted the fact that their parents had expired. In such a scenario, we see no reason as to why the starting point of limitation, for the purpose of the Scheme in question, cannot be counted from 28.11.2013, the date of issuance of Death Certificates by the Government of Uttarakhand.

9. Apart from the above, it is also noticeable that the object and purpose of the Scheme is to extend the Government support to the agriculturists or their family in distress. For its very nature, the Scheme does not expressly prohibit condonation of delay in appropriate cases. Even when the application is supposed to be made within a period of 4 months and the District Magistrate is empowered to condone the delay upto the period of 1 year, it cannot be said that the concerned Committee or the Government may not condone the delay beyond the period of 1 year in an appropriate case. There appears to be no clear prohibition against entertaining of a belated application, when the delay occurs for the reasons and circumstances beyond the control of the claimant.

10. Moreover, in the present case, the petitioners cannot be said to be the persons sleeping over their rights and rather, they had been making all the efforts for collecting documents for making appropriate claim before the respondents. The petitioners have pointed out that they got the final report only on 28.06.2014 and submitted the claim application on 01.07.2014. If there was any deficiency in the application, the same was also removed on 14.08.2014.

11. For all what has been discussed hereinabove, we are clearly of the view that in the singular facts and circumstances of this case, in the first place, the claim made by the petitioners could not have been rejected on the ground of delay; and the period of limitation under the Scheme in question ought to have been counted from the date of issuance of Death Certificates, i.e., 28.11.2013. Secondly, if at all, there was a slight delay in making of the claim by the petitioners, the same ought to have been condoned by the respondents. Rejection of claim of the petitioners only on the ground of delay, being entirely unreasonable and unjustified, cannot be sustained.

12. Accordingly and in view of the above, this writ petition is allowed to the extent and in the manner that impugned decision dated 09.09.2014 in so far relating to the case of the petitioners in paragraphs 23 and 24 (supra) is set aside and the matter stands remitted to the concerned District Level Committee for reconsideration of the claim made by the petitioners on merits while ignoring the question of delay.

13. It would be expected of the authorities concerned to take a final decision in the case of the petitioners at the earliest, preferably within two months from the date of production of the certified copy of this order.