
(2002) 06 BOM CK 0100
In the Bombay High Court
Case No : P.I.L. No. 84 of 2001

S.S. Ahluwalia

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 05-06-2002

Acts Referred:

Constitution of India, 1950 — Article 21, 226

Citation : (2002) 6 BomCR 157

Hon'ble Judges : C.K. Thakker, C.J.;Ranjana Desai, J

Bench : Division Bench

Advocate : B.D. Joshi, for the Appellant; Gulam Vahanvati, Gen., for the Respondent

Final Decision : Allowed

Judgement

C.K. Thakker, C.J.—This petition has been placed before this Court pursuant to an order passed by the Hon''ble Supreme Court on 16th March, 2001 titled S.S. Ahluwalia Vs. Union of India and Others, .

2. In the wake of assassination of Smt. Indira Gandhi on October 31, 1984, there were several killings of Sikhs in Delhi and other parts of the country between October 31, 1984, and November, 1984. A Commission was also constituted headed by Hon''ble Mr. Justice R.N. Misra (Retd.) which made an inquiry and submitted a report confirming killings of Sikhs.

3. A petition being Civil Writ Petition No. 1429 of 1996, Bhajan Kaur v. Delhi Administration, was filed in the High Court of Delhi claiming compensation to the dependants of the victims. The High Court of Delhi by a judgment dated 5th July, 1996, reported in 1996(III) AD (Del.) 333, allowed the petition and issued certain directions.

4. Then another petition was filed in the Hon''ble Supreme Court. In the said petition it was alleged that several persons were killed in 1984. A prayer was, therefore, made to grant compensation to the relatives and dependents of the

victims on the principle on which the High Court of Delhi passed an order. The Hon''ble Supreme Court, however, was of the view, that it would be appropriate, if the respective High Courts of Delhi, Rajasthan, Maharashtra, etc. were directed to deal with the matter in respect of the allegations made in the petition before the Hon''ble Supreme Court falling under the jurisdiction of the respective High Courts and to pass appropriate orders. The proceedings, therefore, stood transferred to respective High Courts. That is how the matter has been placed before us.

5. We have heard Mr. Joshi learned Counsel for the petitioner and Mr. Vahanvati, learned Advocate General for the State.

6. The learned Counsel for the petitioner contended that in the light of the affidavit filed by the Under Secretary of the Revenue and Forest Department, Government of Maharashtra, it is clear that nine persons lost their lives in the State of Maharashtra. As per Exhibit "A" to the affidavit-in-reply, five persons were from Ahmednagar District, two were from Jalgaon and two from Akola Districts. The details are as under:-

7. The learned Counsel submitted that when an amount of Rs. 2 lakhs had been ordered to be paid by the High Court of Delhi in Bhajan Kaur, the same principle should be applied to the persons who lost their lives in the State of Maharashtra and such amount may be ordered to be paid to the dependents of the victims in this State also. He, therefore, submitted that the petition may be allowed, and directions may be issued to the State authorities.

8. The learned Advocate-General stated that by an order dated 10th of October, 2001 the Division Bench directed the petitioner to file an affidavit giving details of the names and other particulars of the persons who are said to have been killed, and the cases, if any, registered in respect of such murders. He stated that neither in the Supreme Court in the petition filed under Article 32 nor at any other place it was alleged that there was negligence, carelessness or failure to discharge duties on the part of police officials of the State of Maharashtra and, as such no order can be passed on the basis of which the High Court of Delhi had awarded the compensation.

9. The decision in Bhajan Kaur was sought to be distinguished by the learned Advocate-General, relying on the report submitted by Justice Misra Commission. The report on which the reliance was placed by the High Court of Delhi expressly stated that there was passivity, callousness and indifference on the part of the police of Delhi in the matter of controlling the situation during the 1984 riots. The commission also observed that there was abundant evidence before the commission that the police on the whole did not behave properly and failed to act as a professional force. It was in the light of the above report that the Court had passed the order.

10. The learned Advocate-General also submitted that precisely because of that reason, the Hon''ble Supreme Court had observed;

"But in the nature of the circumstances of the case, it is very difficult for us to extend the decision of the High Court of Delhi in *Bhajan Kaur v. Delhi Administration* (supra) to all the states without making a detailed examination of the circumstances arising in each case."

11. He also submitted that in the affidavit filed before the Hon^{ble} Supreme Court, the case of the State of Maharashtra was that the State had taken steps to protect the riot affected persons and their property. He, therefore, submitted that the facts stated and decision arrived at by the High Court of Delhi would not apply to the present case.

12. We may state that, we are not expressing final opinion on the above point.

13. On 30th January, 2002, the Division Bench of this Court passed an order granting time to the parties and to state the amount awarded as compensation to the victims of Delhi, Orissa, Rajasthan, Haryana, Himachal Pradesh, Bihar, Madhya Pradesh, Uttar Pradesh and Maharashtra.

14. The learned Advocate-General states that so far as States of Orissa, Bihar and Madhya Pradesh are concerned they have paid Rs. 20,000/- in case of death. So far as Himachal Pradesh is concerned, it was Rs. 20,000/- for Sikhs and Rs. 15,000/- for non-Sikhs. In U.P., Rs. 50,000/- was ordered to be paid. The Delhi High Court awarded Rs. 2 lakhs. In Maharashtra the amount which was paid was Rs. 5,000/-. One of the persons who was killed was a Police Constable, and he was paid an amount of Rs. 10,000/-.

15. In the facts and circumstances of the case, in our opinion, ends of justice would be met keeping in mind the observations of the Hon^{ble} Supreme Court and the amount which has been paid by the other states that over and above Rs. 5,000/- (and Rs. 10,000/- to a Police Constable), an additional amount of Rs. 20,000/- is ordered to be paid to all the heirs/successors/dependents of all nine persons who lost their lives as mentioned in Exhibit "A" to the counter affidavit filed by the respondent State.

16. The respective Collectors i.e. Collectors of Ahmednagar, Jalgaon and Akola shall take appropriate steps so that additional amount of Rs. 20,000/- should be paid to the heirs/successors/dependents of each of the victims. The amount will be paid within eight weeks from today.

17. We may, however, clarify that since there is nothing on record regarding individual cases, we are passing this general order. As and when any heir/successor/dependent comes forward in individual cases, it will be decided on its own merits and payment of Rs. 20,000/- ordered by us will not be treated as final figure. If any order will be passed by a competent Court in those proceedings, this fact regarding payment of amount of Rs. 20,000/- by this Court will be taken into account by such Court.

18. The petition is accordingly allowed to the extent indicated above. No order as to costs.

19. Authorities to act on ordinary copy of this order duly authenticated by the Sheristedar of this Court.

20. Certified copy expedited.