

**(2001) 03 SC CK 0065**

**In the Supreme Court Of India**

**Case No : W.P.(C) No.-000232-000232 / 1997**

S.S. Ahluwalia

APPELLANT

Vs

Union of India and Others

RESPONDENT

**Date of Decision : 16-03-2001**

**Acts Referred:**

Constitution of India, 1950 — Article 21

**Citation :** (2001) 2 ACR 1903 : AIR 2001 SC 1309 : (2001) AIRSCW 1130 : (2001) 3 JT 523 : (2001) 3 MPHT 1 : (2001) 2 PLJR 180 : (2001) 2 SCALE 495 : (2001) 4 SCC 452 : (2001) 2 SCR 468 : (2001) 2 Supreme 369 : (2001) 1 UC 516

**Hon'ble Judges :** S. Rajendra Babu, J;S. N. Phukan, J

**Bench :** Division Bench

**Advocate :** Mukul Rohtagi, Additional Solicitor General, Vijay Panjwani, Y.P. Mahajan, Hemant Sharma, P. Parmeswaran, Kailash Vasdev, S. Varma, Mrs. H. Wahi, Ms. Anu Sawhney, Ms. Madhur Dadlani, S. K. Agnihotri, Ms. Binu Tamta, D.S. Mehra, Rajiv Mehta, Ms. Ameeta, V. Duggal, T. Sridharan, S.S. Shinde, S.V. Deshpande, R.C. Verma, C. Sidharth, Brijender Chahar, Ashok Mathur, Ms. A. Subhashini, H. S. Parihar, K.S. Parihar, Anil Srivastava, B.B. Singh, K.R. Nagaraja, K.S. Bhati, R.S. Jena, J.S. Attri, R.S. Sodhi, Ashol K. Srivastava, Rajiv Mehta, Prem Nath Malhotra, K.H. Nobin Singh, Ms. Malini Poduval and D.M. Nargolkar, for the Appellant;

**Final Decision :** Disposed Off

## Judgement

Rajendra Babu, J.—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 till November 1984 which involved arson, looting and murder. A Committee was constituted headed by Justice R.N. Misra of this Court which made an inquiry and reported that Sikhs killed in those riots were 3874 in Delhi, 127 in Kanpur and 69 in Bokaro. Civil Writ Petition No. 1429 of 1996 titled Bhajan Kaur v. Delhi Administration was filed in the High Court of Delhi for paying compensation to the dependents of those killed in the riots after the assassination of Smt. Indira Gandhi as the State had a duty to protect the

life of its citizens and the State ought to pay compensation thereof. The High Court of Delhi by its order dated July 5, 1996 held that in the expanded meaning attributed to Article 21 of the Constitution it is the duty of the State to create a climate where members of the society belonging to different faiths, caste and creed live together and, therefore, the State has a duty to protect their life, liberty, dignity and worth of an individual which should not be jeopardised or endangered. If in any circumstance the State is not able to do so, then it cannot escape the liability to pay compensation to the family of the person killed during riots as his or her life has been extinguished in clear violation of Article 21 of the Constitution. The High Court, therefore, directed payment of a sum of Rs. 2 lakhs with interest and also made a general direction that this direction should apply to similar cases also. Thereafter, this writ petition has been filed seeking to extend the benefit of the judgment in *Bhajan Kaur v. Delhi Administration* (supra) to the entire country and for certain other reliefs. It is brought to our notice that the number of persons killed in each of the States is as under:

Period of Default Rate of Damages [% age of arrears per annum]

- (a) Less than two months 17
- (b) Two months and above but less than four months 22
- (c) Four months and above but less than six months 27
- (d) Six months and above 37

Certain amounts have been paid to some of the dependents of those killed.

2. Certain claims have been made in para 13.3 of this writ petition setting out certain facts which need to be verified. After this petition was filed notices were issued to the Governments of different States and they have filed responses in each one of those cases stating the steps that have been taken by them in cases where there had been death or other kinds of violence resulting in injuries or loss of property. 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. Such examination cannot be done by us. Therefore, it would be appropriate for us to direct the High Courts of Delhi, Rajasthan, Orissa, Punjab & Haryana, Himachal Pradesh, Patna, Madhya Pradesh, Allahabad, and Bombay in the States of Delhi, Rajasthan, Orissa, Haryana, Himachal Pradesh, Bihar, Madhya Pradesh, Uttar Pradesh, Maharashtra and Goa to deal with the matter in respect of the allegations made herein in respect of the State falling in its jurisdiction by treating this writ petition as a petition filed in that High Court. These proceedings, therefore, shall stand transferred to the respective High Courts. A copy of the petition with Annexures and response of the respective State Government shall be sent to the High Court for appropriate action.

3. The writ petition stands disposed of accordingly.