
(2016) 08 MP CK 0018

In the Madhya Pradesh High Court

Case No : Writ Petition No. 8523 and 8522 of 2014

Surjeet Singh S/o Kabul Singh

APPELLANT

Vs

State of M.P.

RESPONDENT

Date of Decision : 17-08-2016

Acts Referred:

Constitution of India, 1950 — Article 21, Article 226, Article 226, Article 227

Citation : (2016) 4 MPLJ 553

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

Bench : Single Bench

Advocate : Mr. Milind Phadke, Learned Counsel, for the Respondent; Mr. Himanshu Joshi, Learned Counsel, for the Petitioner

Final Decision : Allowed

Judgement

S.C. Sharma, J. - Regard being had to the similar controversy involved in above cases, they have been heard analogously together with the consent of the parties and a common order is being passed in the matter. Facts of WP No. 8523/2014 are narrated as under:-

2. The petitioner before this court aged about 67 years is an unfortunate victim of 1984 riots which took place in the large number of states of the country including, the State of Madhya Pradesh. He is fighting for grant of compensation since 1984. The petitioner was having a timber shop/saw mill at 39/4 Snehlata Ganj, Indore. His Saw Mill was put on fire. He immediately lodged a written report with the Station House Officer, Police Station Mahatma Gandhi Marg. The written complaint submitted by the petitioner is dated 05-11-1984 and the same is on record. A crime was registered by the police at Crime No.571/1984 and the copy of the First Information Report (FIR) is also on record. The matter relating to payment of compensation has been adjudicated by the Division Bench of this court presided by Hon'ble the Chief Justice and the Division Bench has passed the order on 24-01-2006 in Writ Petition No. 2134/2001 directing the State Government to provide compensation to the victims of 1984 Riots. Various other

directions have been given by this court in the aforesaid case.

3. The petitioner's contention is that after the judgment delivered by the Division Bench of this court he has submitted an application before the District Magistrate, Indore and has claimed an amount of Rs.1,41,060/- towards the loss incurred by him. The petitioner's grievance is that inspite of there being a judgment passed by the Division bench of this court, the respondents in a mechanical manner have rejected the claim of the petitioner.

4. Reply has been filed in the matter and the contention of the respondents is that a list of Riots Victim of 1984 was prepared by the State of Madhya Pradesh in the year 1984 itself and all affected persons, who are victims of 1984 riots were included in the "Daira Panji" as per the recommendations of Nanawati Commission. The only reason assigned by the respondents in the return is that the petitioner's name does not find in the "Daira Panji" and, therefore, the question of grant of compensation does not arise. Besides it, no other ground has been raised by the respondents.

5. Heard learned counsel for the parties and perused the record. The matter is being heard finally with the consent of both the parties.

6. In the present case the petitioner is admittedly a victim of 1984 Riots.

The present case reflects a very sorry state of affairs in a democratic set up. The 1984 Riots victim on account of red-tipism is struggling hard before the system to get compensation since 1984 and for the last thirty two years the petitioner has visited the office of District Magistrate, for more than hundred times, as argued he has visited various Government Offices and other private offices and lastly he has visited this court and till date nothing has been done to compensate him for the loss which he has suffered. In a democratic set up such type of harassment of an individual cannot be tolerated. It is certainly a violation under article 21 of the Constitution of India. The only reason assigned by the State of Madhya Pradesh is that the name of the petitioner does not find place in the "Daira Panji". The record of the case reflects that FIR was lodged by the petitioner in the year 1984 and a crime was registered in the year 1984, itself. He has categorically stated in the First Information Report about the loss incurred by him. There is no denial by the mighty State in respect of registration of FIR then also the petitioner is being forced to go from desk to desk to fight for his legitimate right of compensation.

7. In the considered opinion of this court, no amount of compensation is going to heal the wound of 1984 Riots victims. The right of compensation is only a measure to provide some help to the victims, who have lost their near and dear ones and who have lost their property. It is alleged that the mobs swarm into Sikh neighbourhoods arbitrarily killing any Sikh men or women they could find. It is further alleged that their shops and houses were ransacked and burned. Others were dragged out from their homes and hacked to death with bladed weapons. Such deep scars left among the Sikh Community will not compensate

the 1984 Riots and the State Government is rejecting the right of compensation of the present petitioner, on some pretext or the other only on the frivolous ground that his name does not find place in "Daira Panji".

8. This court in Writ Petition No. 2134/2001 dated 24-01-2006 presided by Hon"ble the Chief Justice Shri A.K. Patnaik and Shri Justice Dipak Misra in paragraphs 7 to 9 held as under :-

"7. Regarding the disablement and injuries, the State of M.P. in its reply before the Supreme Court has stated that a sum of Rs. 5000/- to Rs.1000/- per person has been paid for temporary injuries.

Along with the additional return filed by the State Government before this court in WP No. 2134 of 2001, the decision of the Cabinet on the recommendations of the Keer Committee has been annexed as Annexure-R-6 and it appears from Anenxure-R-6 that the Cabinet has taken a decision to pay Rs. 25,000/- for permanent disability of Rs. 5,000/- for other injuries. We have delivered a judgment on 23-01-2005 in the case of Jafar Ahmad Khan v. State of M.P. and Others (MP No. 2748 of 1991) on the claims of those who suffered permanent disablement and injuries in the 1989 riots at Indore, holding atleast a sum of Rs. 1,00,000/- should similarly be paid to each person who has suffered permanent disablement or incapacitation. In the said judgment, we have also held that in case of fracture, a sum of Rs. 30,000/- should be paid and in case of injury on vital parts, a sum of Rs. 20,000/- should be paid and in the case of other injuries a sum of Rs, 10,000/- should be paid. For the reasons indicated in the said judgment, we directed that in case of victims of 1984 riots, a sum of Rs. 30,000/- should be paid in case of fracture, Rs. 20,000/- in case of injuries to vital parts of the body and a sum of Rs. 10,000/-, for other injuries.

8. 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 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.

9. 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 @ 6% per annum."

9. There was a direction by the Division Bench to compensate the Riots victim of 1984 Riots. Unfortunately, the respondents have not complied the directions given by the Division Bench of this court and the petitioner is certainly a riot victim. Keeping in view the FIR lodged by him, the petitioner is entitled for compensation otherwise also even though his name does not find in "Daira Panji".

10. The other important aspect of the case is that the petitioner has assessed the loss incurred to his property to the tune of Rs. 1,04,160/-. The quantum of the loss caused to the petitioner on the account of the fact that his timber shop/saw mill was set on fire has not been denied by the respondents in their return.

11. In the considered opinion of this court averments made in the Writ Petition as not controverted by the respondents are presumed to have been admitted. The apex court in the case of Naseem Bano (Smt) v. State of Uttar Pradesh and others reported in 1993 Supp (4) SCC 46 in paragraph-9 held as under :-

"11. The aforesaid reply would show that on behalf of respondents Nos. 1 to 4, it was not disputed that 40% posts which have to be filled up by promotion had not been filled up and the denial of promotion to the appellant was justified on the sole ground that she was not qualified to be promoted to L.T. grade. This shows that in the pleadings before the High Court, there was no contents on the question that the post of L.T. grade which was sanctioned on August 29,1977 was required to be filled up by promotion for the reason that 40% posts had not been so filled. Even though there was no contest on this question the High Court has gone into it and has held that the appellant has failed to establish her case that at the time of the appointment of respondent No. 6 by direct recruitment 40% of the total number of posts in the college were not filled up by promotion as prescribed by Regulation 5(2)(a) of the Regulations. Since no dispute was raised on behalf of respondents Nos. 1 to 4 in their reply to the averments made by the appellant in the writ petition that 40% of the total number of posts had not been filled by promotion inasmuch as the said averments had not been controverted the High Court should have proceeded on the basis that the said averments had been admitted by respondents."

12. In light of the aforesaid judgment as there was a categorical statement in respect of loss caused by the petitioner and the same has been denied by the respondents the petitioner is certainly entitled for compensation.

13. The Apex court in the case of Parasnath Tiwari and Another v. Central Reserve Police Force and Another reported in 2010 AIR SCW 825 has upheld the action of the High Court in granting compensation.

14. The petitioner is claiming compensation and is aggrieved in the matter right

from 1994. It is true that the Inquiry Commission was set up in 1985 headed by justice Ranganath Mishra in respect of 1984 Riots. Another Commission was set up in the year 2000 headed by Justice G.T. Nanavati. Its submitted his report in February, 2005. Inspite of various Commission, various report, the petitioner has not received a single rupees towards compensation. Recently a Commission was constituted by Justice Shri Garg, a retired high Court Judge of Allahabad High Court and he has probe incidents of violence in 1984 riots in Pataudi and Gurgaon. He has submitted report on 29th April, 2016 and he has recommended for payment of compensation to the victims of 1984 riots. Justice Shri Garg in its report has observed as under :-

"Before concluding, the commission would again, at the cost of repetition, like to record its strong feeling and to say that payment of compensation to those who survived or the next of kin of those who did not may never heal their wounds completely, nor make any material difference in the ground realities unless all those concerned do some introspection to identify the causes for such tragedies and take corrective steps to prevent their recurrence in future",

"That is because human tragedies of such magnitude are more often than not caused as such by lack of care and caution as by the all-round failure of public authorities, statutory or otherwise, in the due and proper discharge of their functions and duties, especially those concerning enforcement of law and order."

"To resolve issues riddled with sensitivity, human misery is difficult to compensate in terms of money," it stated, adding that victims had waited 32 years for "just and fair compensation."

15. This court is also of the considered opinion that it is very difficult to compensate the riots victim in terms of money specially those victims who have waited for thirty two years for just and fair compensation. There is a first information on record. The State Government has not denied the first information report, the quantum of loss suffered by the petitioner and therefore in the considered opinion of this court the petitioner is entitled for compensation to the tune of Rs. 1,04,160/-. The petitioner in Writ Petition No. 8522/2014 Sharan Singh as he is claiming compensation to the tune of Rs. 3,77,398/- and the quantum of the compensation has not been denied or disputed in the return in the considered opinion of this court he is entitled for compensation to the tune of Rs. 3,77,398/- .

16. The petitioner in Writ Petition No. 8522/2014 Sharan Singh again who is a victim of 1984 Riot was running a liquor shop and the liquor shop was looted by the hooligan. The petitioner did lodge a report with the police. The petitioner has also taken steps by filing an application for compensation in terms of the order passed by the Division Bench and, therefore, he is also entitled for the same relief which has been granted to the petitioner in Writ Petition No. 8523/2014 to Surjeet Singh, the petitioner, therein, within a period of ninety days.

17. Resultantly, both the writ petitions stand allowed. The respondent Collector is

directed to pay compensation towards the loss incurred by the petitioners of both the writ petition, within a period of ninety days, from today, as the petitioner are fighting for compensation since 1984. They shall be entitled for interest @ 8.5% per annum compensation, right from the date of loss suffered since 1984 till it is actually paid to the petitioners.

18. The exercise of paying the compensation be concluded within a period of ninety days, from today. It is made clear that in case compensation is not paid to the petitioners, alongwith interest, who are certainly the riot victims, this court shall be initiating a Suo-motu Contempt of Courts Proceeding against the respondents. The District Collector is also directed to report the compliance of the order passed by this court, after completion of ninety days, from today to the Principal Registrar of this court.

19. With the aforesaid, both the writ petitions stand allowed with a costs of Rs.25,000/- (Twenty Five Thousand only) each.