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WP-16361-2014

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE SANJEEV S KALGAONKAR

ON THE 10TH OF SEPTEMBER, 2026

WRIT PETITION No. 16361 of 2014*SMT. GURUCHARAN KAUR**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

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Appearance:

Shri Sitaram Garg - Advocate for the petitioner.

Shri Ritwik Parashar - G.A. for the respondents/State.

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ORDER

This writ petition under Article 226/227 of the Constitution of India is filed feeling aggrieved of the order dated 18.09.2014 passed by the Additional Collector, Sehore in Case No.New/Danga Rahat/2014 (Annexure P/8), whereby the Additional Collector, Sehore has issued the recovery certificate for an amount of Rs.7,23,800/- (Rupees Seven Lakh Twenty Three Thousand Eight Hundred only) stating that the amount was wrongly paid to the petitioner - Smt. Gurucharan Kaur Ratra.

2. Learned Counsel for the petitioner, in addition to the facts and grounds mentioned in the application, submitted that the petitioner's husband suffered loss of property during the riots of 1984. A task force was constituted by the State Government for determination of compensation towards loss of property. The High Court of Madhya Pradesh in M.P. No.1045/1992 vide Order dated 24.01.2006 directed that any person claiming



that he has suffered loss of property in 1984 riots may make a prayer before the Collector of concerned District, who will make the assessment of the loss suffered and award the compensation commensurate with such loss. It was further directed that a lump-sum interest of 40% will be paid to the claimant, who has not been paid the amount. Accordingly, the petitioner submitted an application for grant of compensation to the Collector, Sehore dated 09.05.2013 (Annexure P/3) mentioning all the details. The Collector, Sehore, after determination of the compensation to the tune of Rs.7,23,800/-, requested the Government of M.P. for allotment of same amount for payment of compensation to the petitioner. Accordingly, the petitioner was paid the compensation amount of Rs.7,23,800/-. Thereafter, the Collector, Sehore issued notice dated 01.09.2014 (Annexure P/6) stating that Manjeet Singh Saluja has made a complaint against the petitioner regarding concealment of compensation already paid to her. The Collector alleged that the petitioner has illegally received compensation of Rs.7,23,800/-. The petitioner submitted the reply (Annexure P/7), but the Collector passed the recovery order rejecting the application of the petitioner. Accordingly, the Additional Collector, Sehore issued a recovery certificate dated 18.09.2014 (Annexure P/8) demanding recovery of the compensation amount of Rs.7,23,800/-. The Tehsildar has initiated recovery proceedings vide Annexure P/9. The Collector has further sent a reference to the Principal Secretary, Department of Home, proposing recovery against the petitioner and departmental action against the erring officials.



3. Learned Counsel for the petitioner contended that the petitioner was paid interim relief of Rs.5,000/- in 1984 by the State Government. Thereafter, the petitioner was paid compensation amount of Rs.45,000/- in view of the recommendation of Nanawati Commission and in compliance with letter dated 16.1.2006 of the Government of India. The petitioner has specifically mentioned receipt of these amounts in her claim application dated 9.5.2013 (Annexure P/3). The Collector, Sehore, on consideration of the claim application, recommended payment of compensation amount of Rs.7,23,800/-, and sent the proposal for allotment of funds accordingly. There was no concealment of compensation amount earlier paid to the petitioner. Therefore, the recovery order suffers from illegality. The recovery order deserves to be set aside.

4. Per contra, learned Counsel for the respondents/State submitted that since the petitioner was already paid compensation of Rs.45,000/-, which was received by her, this compensation was determined by the Special Task Force in furtherance of the recommendations of the Nanawati Commission. Therefore, the petitioner should not have filed another application claiming compensation. The payment of compensation of Rs.7,23,800/- was erroneous in view of the fact that the petitioner had already received compensation in view of the order dated 16.1.2006 in furtherance of the recommendation of the Nanawati Commission. The Collector, Sehore correctly directed recovery of Rs.7,23,800/-, which was wrongly paid to the petitioner.

5. Heard both the parties and perused the record.



6. The Division Bench of this Court in M.P. No.1045/1992 (*Sardar Kuldeep Singh & Others Vs. Union of India & Others*) and connected matters vide order dated 24.1.2006 (Annexure P/1) held as under:-

"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 at 6% per annum."

7. Thereafter, in Contempt Petition No.881/2007 vide Order dated 21.2.2013 (Annexure P/2), the Division Bench of this Court directed as under:-

"In view of the aforesaid, we find that at present no case is made out for continuation of proceedings. The proceedings are closed. However, it is observed that in case any person who has suffered loss of properties movable or immovable if has not been awarded compensation in respect of the loss of properties would be entitled to move the Collector for payment of compensation as directed in para 8 of the order.

8. The petitioner submitted application dated 9.5.2013 (Annexure P/3) for grant of compensation in furtherance of above stated orders. The petitioner in Paragraph 2 and 3 of the application had specifically stated that she had received Rs.5,000/- as interim relief given by the Government of



M.P. and an amount of Rs.40,000/- as compensation given in furtherance of letter dated 16.1.2006 of the Government of India. She deducted amount of Rs.50,000/- already received from the amount claimed as compensation and added interest @ 40% to the tune of Rs.2,06,800/-. The petitioner claimed compensation amount of Rs.7,23,800/-. The Collector, Sehore approved the compensation of Rs.7,23,800/- and requested for allotment of same amount. The letter of the office of Collector, Sehore dated 14.8.2013 (Annexure P/4) also states that the petitioner was paid Rs.5,000/- as interim relief and Rs.45,000/- by the Central Government, which has been deducted from the claimed amount. Accordingly, the State Government allotted compensation amount of Rs.7,23,800/- *vide* letter dated 7.12.2013 (Annexure P/5) and the petitioner was paid compensation, accordingly.

9. The Government of India *vide* letter dated 16.1.2006 (Annexure P/12) addressed to the Chief Secretaries of all the States including Madhya Pradesh has directed sanction of ex-gratia and other assistance to the victims of 1984 riots in furtherance of report of Justice Nanawati Commission of Enquiry as under:-

(iv) Ex-gratia for damaged residential properties would be paid @ 10 times the amount originally paid after deducting the amount already paid;

(v) Ex-gratia for damaged uninsured commercial/industrial properties would be paid @ 10 times the amount minus the amount already paid;

" 3. The Governments of Uttar Pradesh, Madhya Pradesh, Chattisgarh, Haryana, Bihar, Jharkhand, J&K, Himachal Pradesh, Orissa, Maharashtra, Uttaranchal, Punjab and NCT of Delhi are requested to take immediate necessary steps to grant ex-gratia and other assistance to the victims of 1984 riots as per the following guidelines:

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(iii) All the claims will be duly verified/scrutinised by local administration/agency of State Governments;

(iv) Each State Government will constitute a Committee, which will consider the verified/scrutinised claims and give recommendation whether the claim should be accepted for payment or rejected.



- (v) Based on the recommendation of the Committee, the State Governments will initially make disbursement of the amount from their own budget;
- (vi) After making disbursement, the State Governments will calculate the total expenditure incurred on payment of ex-gratia/compensation and seek reimbursement from the the Ministry of Home Affairs;
- (vii) All payments to the riot victims will be made through "account payee cheques" only. In case a beneficiary does not have a bank account, the State Government will arrange a bank account to be opened in his/her name before the payment is made.
- (viii) The State Governments would review the procedures prescribed for verification/scrutiny of claims to make it simple and less cumbersome to avoid delay and harassment to the riot victims;"

Accordingly the Task Force was constituted in Madhya Pradesh and an amount of Rs.45,000/- was paid to the petitioner.

10. It is trait law that *ex-gratia* is an act of *gratis* and has no connection with the liability of the state in law. Voluntary monetary grants made out of compassion, or benevolence without a statutory basis, constitute pure *ex-gratia* and cannot amount to compensation, and *ex-gratia* amount paid voluntarily by the State out of sympathy as a measure of interim relief cannot be deducted from statutory compensation. The communication dated 16th January 2006 (Annexure P/12) does not contain any condition that the payment of *ex-gratia* amount by the State in furtherance of these directions would be full and final settlement of plight of the riot victims and no further compensation be paid to the riot victims. Further, the order of Division Bench dated 24/1/2006 (Annexure P/1) also mentions about *ex gratia* payments made to the victims of riot and the compensation paid in furtherance of recommendations of the Keer Committee. Considering these aspects, the Division Bench directed that any person claiming loss of property, movable or immovable, under the 1984 riots may make a prayer before the Collector of concerned District, who will thereafter make the



assessment of the loss suffered by the applicant and award compensation commensurate with such loss within three months from the date of the claim. The order of the Division Bench does not bar the claim of compensation, if the applicant has received *ex gratia* amount in furtherance of the communication dated 16th January 2006 (Annexure P/12).

The communication dated 16th January 2006 granted *ex gratia* amount under the subject 'Sanction of "rehabilitation package" to provide relief to victims of 1984 riots'. It is clear that the *ex-gratia* amount was paid as bounty (rehabilitation package) for immediate relief to the victims of 1984 riots.

11. At the most, it may be treated as prior payment against subsequently quantified liability. *Ex gratia* is a grace while compensation is an obligation. Acceptance of an *ex-gratia* payment from the state does not by itself create a bar to a subsequent or parallel claim for full compensation quantifying the loss of property, unless the victim has signed an explicit waiver stating that *ex-gratia* amount is accepted as full and final satisfaction of the loss.

12. The Collector, Sehore issued the notice dated 1/9/2014 (Annexure P/6) which merely states that the in-charge officer of Riot Relief Section had informed that the petitioner had already been paid the compensation and concealing this fact, she had again submitted a compensation claim on 9/5/2013. Apparently, this assertion is factually incorrect in view of Paragraphs 2 and 3 of the claim application (Annexure P/3). The petitioner had transparently disclosed grant of interim relief and receipt of *ex-gratia* payment in her claim application. The petitioner in her



reply to notice also specified that she had received an *ex-gratia* amount of Rs. 45,000/- from the task force in furtherance of the report of Justice Nanawati Commission, which she had mentioned in her application. The Additional Collector, Sehore, without verifying these facts, issued impugned recovery certificate dated 18-9-2014 (Annexure P/8). It is unfortunate that the Collector, Sehore has dealt with such a sensitive matter pertaining to victim of riot in cursory manner and issued recovery certificate without application of mind and properly appreciating the facts available on record. The conduct of the Collector, Sehore in ordering the recovery of compensation from the petitioner, a 1984 riot victim and a widow, demonstrates a glaring lack of due diligence, empathy and proper application of mind. The petitioner had explicitly disclosed her prior receipt of interim relief and ex-gratia payments in her claim application, leaving no basis for the accusation of concealment or illegal receipt of funds. By treating ex-gratia relief, a voluntary grant of immediate assistance, as a bar to statutory compensation and by initiating coercive recovery proceedings through the Tehsildar without investigating the petitioner's candid disclosures, the Authority exercised jurisdiction improperly, subjecting the petitioner to unwarranted legal distress.

13. In view of above discussion, the proceedings of Collector, Sehore and his subordinate authorities are patently erroneous, improper and illegal exercise of jurisdiction, necessitating interference by this Court in exercise of supervisory jurisdiction. Considering the patently erroneous, arbitrary and illegal exercise of jurisdiction by the Collector, Sehore, which



subjected the petitioner, a widow and a victim of the 1984 riots, to prolonged, unwarranted litigation, this Court in the exercise of its extraordinary writ jurisdiction under Article 226 of the Constitution of India, finds it just and equitable to grant monetary compensation for the expenses, mental agony, distress and harassment caused to her. Accordingly, the writ petition is **allowed** with the following directions:

1. The impugned Recovery Certificate dated 18.09.2014 (Annexure P/8) issued by the Additional Collector, Sehore and all consequential proceedings initiated pursuant thereto are **quashed and set aside**.
2. Respondent No. 2/State is directed to pay a sum of **₹50,000/- (Rupees Fifty Thousand only)** to the petitioner as costs/compensation for mental harassment due to unwarranted coercive administrative action within a period of **six weeks** from today.
3. In the event of default in payment within the stipulated period of six weeks, the said amount shall carry interest at the rate of **6% per annum** from the date of this order until its actual realization.

(SANJEEV S KALGAONKAR)
JUDGE