

(2013) 07 JH CK 0063

Jharkhand High Court

Case No: W.P.C. No. 6445 of 2012

Basmati Das

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision: July 8, 2013

Acts Referred:

- Arms Act, 1959 - Section 25, 27
- Penal Code, 1860 (IPC) - Section 120B, 302, 307, 34, 364

Citation: (2014) 1 LJLR 16

Hon'ble Judges: Aparesh Kumar Singh, J

Bench: Single Bench

Advocate: Pankaj Kumar, for the Appellant; Chandra Prabha for the Union of India, for the Respondent

Final Decision: Dismissed

Judgement

Aparesh Kumar Singh, J.

Heard counsel for the parties. Petitioner is seeking adequate compensation from the State Government as well as Government of India on account of death of her husband, Ishwar Das due to extremist violence on 4.10.2011.

2. According to the petitioner on 4.10.2011 some extremists killed her husband Ishwar Das and her father-in-law Fatinder Das. The first information report was lodged by her mother-in-law. Petitioner is the wife of late Ishwar Das and is at the verge of starvation and working as maid servant to meet the ends of her family. It is further submitted that earlier petitioner's mother-in-law had given an application relating to claim of compensation and compassionate appointment before the Circle Officer, Bolwa, Simdega (Annexure-3).

3. Respondent-State in their counter affidavit has made categorical statement that as per the resolution of the State Government contained at Annexure-B to the counter affidavit dated 16.2.2006 and the earlier resolution contained at Annexure-C

dated 7.5.2003, compensation is payable to victim on extremists violence as per the criteria laid down therein. In case of death the compensation is to the tune of Rs. 10 lakhs, for permanent disability compensation is of Rs. 50,000/- and Rs. 10,000/- for seriously injured person. However, the same resolution also prescribed the condition in which the benefit could not be accorded to any dependent of such deceased if the deceased is himself a extremist or terrorist or a charge-sheeted accused or has been killed in a legal police encounter or has suffered injuries on that account or disability. By referring to Annexure-D, minutes of the meeting dated 8.10.2012 held under the chairmanship of the Deputy Commissioner, Simdega, it is submitted that the petitioner's application was also considered and it was found that there are 5 criminal cases pending against the deceased Ishwar Das which are as follows:--

- i. Kurdeg P.S. Case No. 40 of 2007 dated 4.11.2007 u/s. 364 /302 /34 of I.P.C. and u/s. 27 of the Arms Act.
- ii. Kurdeg P.S. Case No. 42 of 2008 dated 20.12.2008 u/s. 364A /120B /34 of the I.P.C.
- iii. Raiboga (Orissa) P.S. Case No. 32 of 2007 dated 9.10.2007 u/s. 392 of the I.P.C. and u/s. 25 of the Arms Act.
- iv. Raiboga (Orissa) P.S. Case No. 12 of 2008 dated 4.6.2008 u/s. 392 of I.P.C. and u/s. 25 of the Arms Act.
- v. Birmitrapur (Orissa) P.S. Case No. 192 of 2008 dated 21.10.08 u/s. 387 /307 /34 of I.P.C. and u/s. 25 /27 of the Arms Act.

4. In such circumstances, the committee has rejected the application of the petitioner based upon the resolution of the Home Department, Government of Jharkhand dated 7.5.2003.

5. Learned counsel for the petitioner submits that the deceased was only charge-sheeted and had not been convicted and, therefore, petitioner should not be denied the compensation. By only naming a person in a case does not make him a criminal as is the condition stipulated in the resolution in question.

6. I have heard the counsel for the parties at some length and gone through the relevant materials on record including Annexure-D. The claim of compensation by the petitioner on account of death of her husband Ishwar Das is based upon the factual basis that the deceased has been killed in extremist violence by certain extremists on 4.10.2011. The policies of the State Government for grant of compensation in such circumstances is laid down in the resolution dated 7.5.2003 and 16.2.2006. As per the said resolution if the deceased is terrorist, extremist or charge-sheeted accused, the dependent of such deceased would not be entitled to claim compensation. On perusal of the minutes dated 8.10.2012 (Annexure-D) it appears that the deceased was facing 5 criminal cases which are narrated hereinabove. In the matter of grant of compensation, the State Government is

entitled to lay down resolution in such manner where the dependent of such extremists, terrorist or charge-sheeted person can be denied the benefit of compensation. It is not necessary that the person concerned should have been convicted after a proper trial.

7. In the facts and circumstances, the petitioner has not been able to make out a case for direction upon the respondents to pay compensation on account of death of her husband in extremists violence. Accordingly, the writ petition is dismissed.