

BIHAR HUMAN RIGHTS COMMISSION

9, Bailey Road, Patna

File No. BHRC/Comp. 547/09

Case of YOGENDRA SINGH GAMBHIR (General Secretary, Bihar Gurudwara Coordination Committee)

31.3.2015

Petitioner present. Mr. Amir Subhani, Principal Secretary, Home Department present. Mr. Rakesh Singh, Joint Secretary, Ministry of Home Affairs, Government of India present along with Mr. Rakesh Mittal, Director, Home (Special), Government of India.

This matter is pending in this Commission from 2009. Various orders have been passed, various responses have been received. After hearing the petitioner as well as the Secretaries present, it becomes clear that there is no dispute with regard to genuineness of the claims of the 35 persons who suffered during the riots of 1984 and the State Government has after due inquiries come to conclusion that applicants suffered losses and have not been paid any compensation.

The Union of India submits that when cases of such nature were considered applicants cases were not considered for reasons mentioned in the letter of Ministry of Home Affairs dated 2.8.2009. This letter has already been considered by the Commission while passing an order on 15.4.2013:-

“ ‘It may be stated at this stage that as per the stand of the Central Government compensation under the ‘Rehabilitation Package’ can be paid only to such persons who have been paid ex-gratia/ compensation by State Government earlier. In other words, those who did not receive any compensation by the respective State Government prior to earlier i.e. prior to 16.1.2006 are not entitled to compensation. This was stated by the Central Government in the clarificatory letter of the Ministry of Home Affairs dated 2.8.2009. In its preliminary order dated 17.1.2011 the Commission observed as under:-

“The Commission is at a loss to appreciate the logic of the stand indicated in the letter dated 2.8.2009 (supra). While

it is understandable to deny the benefits to those who did not lodge the claim before 16.1.2006, the denial of benefits on the ground of non-payment of ex gratia/compensation prior to 16.1.2006 cannot be appreciated by any logic. There may be umpteen cases or situations where claim was lodged but due to one reason or the other attributable to the departmental functionaries, actual payment was not made. Surely, the victim cannot be made to suffer for the inaction or failure on the part of the official machinery. Perhaps, the Government of India while conveying its clarification in the letter dated 2.8.2009 thought that all claimants had been paid ex gratia and therefore, wanted to limit the benefit of higher revised benefits under the Package to those who had received the benefits. In any view, the Commission is of the opinion that the victims can not be denied compensation for the property loss under the Rehabilitation Package simply on the ground that they were not paid the money prior to the cut-off date. Such a stand is totally arbitrary and violative of article 14 of the Constitution of India.” ’

The Commission on 15.4.2013 passed the following directions:-

“Having thus summed up the matter, and reiterated its earlier observations, the Commission strongly recommends that the 35 anti-Sikh riot victims of Muzaffarpur, the applicants herein, be paid compensation for the property loss without disregarding the fact that they did not receive any ex-gratia/compensation earlier.”

It is further mentioned that a policy was framed in 2006 by which Union of India decided to increase the compensation to such persons who had not received sufficient compensation earlier. That would prima facie mean that somebody who had suffered and had not received due compensation was given enhanced compensation but a person who had not received any compensation would be denied compensation. Perhaps, this would not have been intention of Government of India while making such a policy. The policy would have meant that those who did not receive sufficient compensation would be given sufficient compensation and those who had not received compensation would also be given compensation.

In the light of these observations, let Government of India reconsider the whole issue again while keeping the humanitarian interest in mind, pass a fresh decision. Even otherwise, the claim is of 35 persons and the amount is a petty sum as far as Government of India is concerned. The Commission is hopeful that the Union of India will decide the issue within a period of two months.

Copy of this order be sent to (i) Mr. Rakesh Singh, Joint Secretary, Ministry of Home Affairs, Government of India, (iii) Principal Secretary, Department of Home, Government of Bihar and (iv) applicant Sri Yogendra Singh Gambhir.

File is disposed of.

(Justice Bilal Nazki)
Chairperson