2025:AHC:182876-DB

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Neutral Citation No. - 2025:AHC:182876-DB
Last heard on: September 24, 2025
Pronounced on : October 14, 2025

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT-C No.- 13994 of 2023

Savita Yadav ……..Petitioner(s)

Versus

State of U.P. and 3 others ……...Respondent(s)

Counsel for Petitioner(s) : Ajay Kumar Maurya, Deepak Singh, Gaurav Tiwari, Kunwar Rajan

Counsel for Respondent(s) : CSC

Court No. -35

HON'BLE SHEKHAR B. SARAF, J.
HON'BLE PRAVEEN KUMAR GIRI, J.

HON'BLE PRAVEEN KUMAR GIRI, J. : Heard Sri Gaurav Tiwari, learned counsel appearing on behalf of the petitioner and Sri Birendra Prasad Shukla, learned Standing Counsel appearing on behalf of the State respondents.

2. By means of the present petition, petitioner seeks the following reliefs:

> *"1- issue a writ order or direction in the nature of certiorari quashing the impugned order dated 29.03.2023 passed by Respondent No. 2 (Annexure No. 9) to the writ petition.*
>
> *2- issue any other writ order or direction as this Hon'ble Court may deem fit and proper under the facts and circumstances of the case."*

Brief Facts

3. The petitioner is the wife of the deceased Sanjay Yadav, who was employed as a Khalasi/co-pilot/co-driver of a truck. During the loading of wheat sacks with the aid of an iron rod in the truck, the rod came into contact with a electric wire, as a result of which the petitioner's husband

died due to electrocution. A G.D. entry regarding the incident was made at the Police Station Gambhirpur, District Azamgarh, by Harishchandra Gupta, the father of Gopal Gupta, the owner of the Godown, where the petitioner's husband was working. It is further stated that the petitioner resides within the jurisdiction of Police Station Tahbarpur in the same district. The petitioner, being the wife of the deceased, claims compensation under the **Mukhya Mantri Krishak Durghatana Kalyan Yojana** (hereinafter referred to as "the Scheme").

Contentions of the Petitioner

4. The learned counsel appearing on the behalf of the petitioner has made the following submissions:

a) Learned counsel for the petitioner submits that although the father of the deceased is alive and the agricultural land stands in the name of the father, the deceased Sanjay Yadav, being his son, was the breadwinner of the family and, therefore, he may be treated as having income from agriculture.

b) Learned counsel for the petitioner has further relied upon the the Scheme, under which a person who is either a tenure holder or a co-tenure holder of agricultural land or the breadwinner of the family from the said agricultural land is entitled to get the benefit of the said Scheme. It is submitted that being a family member, the petitioner is also entitled to the benefit as provided under the Government Order.

c) It is further submitted by learned counsel for the petitioner that the petitioner had earlier approached this Hon'ble Court and this Hon'ble Court directed that the report dated 19.12.2022, prepared by the revenue authorities treating the petitioner's source of income as non-agricultural, could not be relied upon. The writ court order dated 02.03.2023 is delineated below:

> *"Heard Sri Rajesh Pandey, holding brief of Sri Ajay Kumar Maurya, learned counsel for the petitioner and Sri Amit Manohar, learned Additional Chief Standing Counsel.*
>
> *The petitioner has moved an application for ex gratia payment on 17.11.2022 under the "Mukhyamantri Krishak Durghatna Kalyan Yojna". Alongwith the*

application, the petitioner has also filed an affidavit of her father in law i.e. the father of her deceased husband that the deceased was engaged in agricultural operation with him. There is no denial of the fact that the deceased's father has agricultural land in village Rewara, Parvezpur and the deceased was doing agricultural operation therein, and yet the respondent no.3 has submitted a report stating in one line that "मृतक कृषक की श्रेणी में नही आता है व परिवार का मुखिया नहीं था". This observation made by respondent no.3 in his report, prima facie appears to be incorrect inasmuch as the deceased was doing agricultural operations, in the agricultural land of his father, and was head of his family. He died leaving behind him his wife and four minor children.

In view of the facts as noted above, we direct the respondent no.2 to consider the application of the petitioner for ex gratia payment under the aforesaid scheme, within four weeks and take an appropriate decision in accordance with law within four weeks from today, without being influenced by the report of the respondent no.3 dated 19.12.2022. If the respondent no.2 finds that the petitioner is entitled for ex gratia payment under the aforesaid scheme, then he shall ensure that ex gratia amount is paid to the petitioner within next two weeks. With the aforesaid directions the writ petition is disposed of.

Learned Chief Standing counsel shall inform this order in writing to the respondent no.2 within three days, for compliance."

d) The State Government, by Government Order dated 28.02.2020, introduced the welfare scheme titled ***'Mukhya Mantri Krishak Durghatana Kalyan Yojana'*** with effect from 14.09.2019, for the benefit of the families of deceased persons as well as individuals rendered handicapped due to accidents. For the purpose of determining eligibility of the deceased, the definition of 'farmer' has been prescribed under Clause (2) of the said Government Order. The relevant portion of the Government Order is reproduced hereinbelow:"

विषय– उत्तर प्रदेश के कृषकों की दुर्घटनावश मृत्यु/दिव्यांगता की स्थिति में ''मुख्यमंत्री कृषक दुर्घटना कल्याण योजना'' के क्रियान्वयन हेतु दिशा निर्देश।

.....राज्य सरकार द्वारा कृषकों की दुर्घटनावश मृत्यु/दिव्यांग होने की स्थिति में उनके परिवार को सामाजिक सुरक्षा प्रदान करने के उददेश्य से ''मुख्यमंत्री कृषक दुर्घटना कल्याण योजना'' संचालित किये जाने का निर्णय लिया गया है, जिसके लिए निम्नवत दिशा निर्देश निर्धारित किये जा रहे हैं:–

1–यह योजना दिनांक 14 सितम्बर, 2019 से प्रभावी होगी।

2– पात्रता (कृषक की परिभाषा)–

यह योजना उत्तर प्रदेश के निवासी ऐसे कृषकों के लिए है, जो दुर्घटनावश मृत/ दिव्यांग हो जाते है। कृषक का तात्पर्य निम्नलिखित है:–

(1) राजस्व अभिलेखों अर्थात खतौनी में दर्ज खातेदार/सहखातेदार।

अथवा

(2) खातेदार/ सहखातेदार के परिवार के ऐसे कमाऊ सदस्य (Bread winner) जिनकी आजीविका का मुख्य स्रोत खातेदार/ सहखातेदार के नाम दर्ज भूमि से होने वाली कृषि आय है।

अथवा

(3) ऐसे भूमिहीन व्यक्ति जो पटटे से प्राप्त भूमि पर अथवा बटाई पर कृषि कार्य करते हैं तथा जिनकी जीविका का मृख्य साधन ऐसे पट्टे अथवा बटाई पर ली गयी भूमि पर कृषि कार्य है। पट्टेदार के अन्तर्गत असामी पट्टेदार, सरकारी पट्टेदार, तथा निजी पट्टेदार सम्मिलित होंगे।

.....

4. <u>आय</u>–

कृषक की मृत्यु/ दिव्यांगता की तिथि को उसकी आयु 18 से 70 वर्ष तक हो।

5– <u>योजना का आच्छादन</u>–

(1) यदि आग लगने, बाढ़, बिजली गिरने, करेन्ट लगने, सॉप के काटने, जीव–जन्तु/ जानवर द्वारा काटने/ मारने/ आक्रमण से, समुद्र, नदी, झील, तालाब, पोखार व कुएं में डूबने, आंधी–तूफान, वृक्ष से गिरने/ दबने, मकान गिरने, रेल/ रोड/ वायुयान/ अन्य वाहन आदि से दुर्घटना, भू–स्खलन, भूकंप, गैस रिसाव, विस्फोट, सीवर चैम्बर में गिरने अथवा अन्य किसी कारण से कृषक की दुर्घटनावश मृत्यु/ दिव्यांगता होती है, तो कृषक/ विधिक वारिस/ वारिसों को इस योजना के अन्तर्गत आर्थिक सहायता अनुमन्य होगी।

e) In the impugned order dated 29.03.2023, it has been recorded that in compliance of the earlier order of this Court dated 02.03.2023, petitioner has not filed any representation, however, the petitioner had filed the representation dated 14.03.2023 in compliance of the earlier order of this Court, which is delineated below:

''सेवा में, *दिनांक–14.03.2023*

श्रीमान जिलाधिकारी महोदय,
आजमगढ़, उत्तर प्रदेश।

<u>विषयः– मुख्यमंत्री किसान बीमा पत्रावली निरस्त किये जाने तथा माननीय उच्च न्यायालय के अनुपालन हेतु।</u>

महोदया,

सविनय निवेदन यह है कि मै सविता यादव निवासिनी ग्राम रेवरा परवेजपुर, तहसील निजामाबाद जिला आजमगढ़ मैने अपनी कृषक दुर्घटना पत्रावली तहसील कार्यालय में प्रस्तुत की थी जिसे दिनांक 19.12.2022 को निरस्त कर दिया गया जो शासनादेश के विधिसम्मत नही था जिसके उपरांत मैने अपना प्रार्थना पत्र जिला कार्यालय तथा तहसील कार्यालय में प्रस्तुत किया था परन्तु कोई प्रतिक्रिया न मिलने पर उच्च न्यायालय इलाहाबाद में रिट पिटीशन फाइल की जिसका आदेश दिनांक 02.03.2023 को आया।

महोदय मेरा निवेदन यह है कि रिट पिटीशन 5602/2023 दिनांक 02.03.2023 का सन्दर्भ ग्रहण करें तथा नियमानुसार कार्यवाही करें।

संलग्नकः–

1. उच्च न्यायालय के आदेश की प्रति

2. निरस्त पत्रावली

3. लेखपाल, तहसीलदार की जांच आख्या

4. ग्राम प्रधान द्वारा जारी प्रमाण पत्र जिसमें मृतक के व्यवसाय को कृषि कार्य में कार्यरत प्रमाणित किया गया है।

प्रार्थिनी

सविता यादव
M. 7275867431

Contentions of the Respondent

5. Learned counsel appearing on behalf of the respondents has rebutted the arguments of petitioner and made following submissions:

a) It is submitted by learned Standing Counsel that no land has been recorded in the name of the deceased person as the father of the deceased is still alive. All the Agricultural land is recorded in the name of deceased father and the deceased was doing the work of Khalasi of a truck and he was loading the wheat sacks in the truck with the help of iron rod and the iron rod touched the electric wire due to which the deceased died due to electrocution.

b) Learned Standing Counsel further submits that the deceased resides in the jurisdiction of Police Station Tahbarpur while he died doing the work of loading as Khalasi in jurisdiction of Gambhirpur that is far from the place of residence of the deceased, therefore, it cannot be said that the deceased was doing job of farmer and the same is evident from the perusal of the G.D. entry which was recorded by the police on the information of Harishchandra Gupta, who is the father of Gopal Gupta, owner of the godown. Although, the deceased was a son of farmer but he was not doing job of farmer with his father and his main source of income is not from agriculture as he was doing the job of a truck khalasi/ co-driver. Therefore, the claim of the petitioner was rejected by the District Magistrate/Collector, Azamgarh, vide the impugned order dated 29.03.2023, on the ground that the deceased was a co-driver of the truck and that his primary source of income was not from the agricultural work.

c) The Government Order clearly stipulates the eligibility criteria for payment under the Scheme. In the Government Order dated 28.02.2020, the term *'Krishak'* has been defined as under:

> *(1) the tenure holders or co-tenure holders who name has been mentioned in the revenue record or in khatauni of the Tehsil;*
>
> *(2) a breadwinner family member of the tenure holder of co-tenure holder whose main source of livelihood is based on the agricultural income arising out of the land recorded in the name of the tenure holder or co-tenure holder or;*
>
> *(3) other land less person who has obtained land by way of lease or batai (rent) for doing agricultural work on the land and the lease holders, including asami lease holders, government lease holders or private lease holders.*

d) In compliance with the order of this Hon'ble Court, the impugned order has been passed. In the said impugned order, it has been observed that the petitioner had not submitted any representation before the competent authorities. On the basis of the material available on record, the petitioner was held not to be a "farmer" but was engaged as a co-driver (khalasi).

Analysis and Conclusion

6. We have given thoughtful consideration to the submissions advanced by the learned counsel for the parties and have also perused the relevant records of the case and the affidavits filed on behalf of both the parties. In our view the impugned order has not considered all aspects of the case and rejected the application of the petitioner without assigning proper reasons. The impugned order does not take into consideration the observations made by the High Court in its order dated March 2, 2023. Furthermore, just because the petitioner was working as a Khalasi when the incident took place would not by itself mean that he was not engaged as a farmer in his father's farm. It is very common to find persons doing odd jobs during off-season of farming. That by itself would not disentitle him from the benefit of the Scheme.

7. Accordingly, the petitioner is directed to submit a fresh comprehensive application/ representation along with the entire document declaring her husband as a farmer so that a such decision may be taken by

the authority concerned in respect of ex-gratia payment given to a Krishak under the Scheme.

8. After perusing the entire record, the District Magistrate should obtain a fresh report keeping in mind sub-clause (2) of paragraph no. 2 of the Government Order dated 28.02.2020 by which the State Government has introduced the welfare scheme title 'Mukhya Mantri Krishak Durghatana Kalyan Yojana' and ascertain as to whether the petitioner was the breadwinner member of the family of the tenure holder and whether the source of income of the deceased was agriculture work or not. Thereafter, proper opportunity of hearing should be granted to the petitioner for claiming the benefit under the Scheme and thereafter pass a reasoned and speaking order.

9. Accordingly, the impugned order dated 29.03.2023 passed by the respondent no. 2, District Magistrate, Azamgarh, is quashed and set aside with a direction to the District Magistrate to consider the claim of the petitioner after providing opportunity of hearing to the petitioner, preferably within a period of eight weeks from the date of receipt of certified copy of this order.

10. With the above direction, the writ petition is allowed.

October 14, 2025
K.K. Maurya

(Praveen Kumar Giri, J.)

I agree

(Shekhar B. Saraf, J.)

Digitally signed by :-
KAMLESH KUMAR MAURYA
High Court of Judicature at Allahabad