

Varsha

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3116 of 2022**

1. **ANUJA ARUN REDIJ,**
Residing at village Chandera
Tal. District Ratnagiri

... PETITIONER

~ VERSUS ~

1. **THE STATE OF MAHARASHTRA,**
through its Principal Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai 400 032.
2. **THE REGIONAL FOREST
OFFICER,**
Ratnagiri District Ratnagiri.

... RESPONDENTS

APPEARANCES

FOR THE PETITIONER

Mr RS Apte, Senior Advocate, i/b
Ketan A Dhavle.

**FOR RESPONDENT-
STATE**

**Mr Milind More, Additional
Government Pleader.**

**CORAM : G.S.Patel &
Gauri Godse, JJ.**

**RESERVED ON : 15th September 2022
PRONOUNCED ON : 26th September 2022**

JUDGMENT (Per Gauri Godse J) :-

1. Rule. By consent, Rule made returnable forthwith.
2. This Petition is filed invoking extraordinary jurisdiction under Article 226 of the Constitution of India, praying for quashing and setting aside the impugned communication dated 18th March 2019 issued by Respondent No.2-Regional Forest Officer. The Petitioner seeks further directions against the Respondents to pay compensation to the Petitioner as per Government Resolution dated 11th July 2018, on account of death of her husband due to attack by wild Boar.

FACTS OF THE CASE:

3. The Petitioner is widow of one Shri Arun Arvind Redij who died in an accident that was caused due to an attack by a wild boar. Late Shri Arun Arvind Redij (“**the deceased**”) was working as Head Mechanic at ST workshop at Ratnagiri, Malnaka. On 5th February 2019 he was returning from his duties and was travelling from Ratnagiri to Chanderaai on his two-wheeler vehicle, through his regular commuting road at around 2 am. He encountered a wild boar. Due to attack by the wild boar the deceased met with an

accident and got hit on the road, which caused serious injuries to him and ultimately, he succumbed to the injuries on 5th February 2019 at around 7:20 a.m.

4. The said accident was reported to the local police station at Ratnagiri, Gramin (“**the said police station**”) and spot panchanama was conducted by the said police station. FIR was registered by the said police station. The postmortem of the deceased was also conducted. The spot panchanama records that a wild boar attacked and collided with the two-wheeler of the deceased, which resulted into an accident and caused the death. Spot panchanama was conducted on the very same day of the accident by the said police station. A copy of the FIR, spot panchanama and postmortem report are annexed to the Petition.

5. The deceased was survived by his widow who is the Petitioner in this petition. Petitioner on 11th February 2019 made an application to Respondent no.2-Regional Forest Officer, Ratnagiri inter alia seeking compensation for the loss of life of her husband. Petitioner relied upon the Government Resolution dated 11th July 2018 (the said GR) which provides for grant of compensation in case of death of a person due to attack by a wild animal. The said GR provides for grant of compensation of Rs. 10 lakhs in case of death. The Petitioner did not receive any response to her application for compensation. Hence, she repeated her request by another application on 14th March 2019. Respondent No.2 by his letter dated 18th March 2019 informed the Petitioner that her application for compensation was rejected as the information about the accident

was not intimated to the nearest Forest Officer within 48 hours of the accident. The communication of Respondent No.2 further stated that the panchanama was not conducted within three days in presence of the forest officer. By giving said reasons application made by the Petitioner for compensation was rejected.

6. Petitioner thereafter made a representation to the State Minister for Forest by making an application dated 26th March 2019. Petitioner in her application reiterated the facts and expressed shock and surprise to the pedantic view taken by Respondent No.2. Petitioner's representation was given no answer, hence she was constrained to approach this Court by filing present Petition.

SUBMISSIONS ON BEHALF OF PETITIONER:

7. Learned Senior Counsel Mr RS Apte, submitted on behalf of the Petitioner that the fact that the deceased had met with an accident due to attack by the wild boar which caused his death, is not disputed by the Respondents. The reason given by Respondent no.2 for rejecting application for compensation is unjustified and not acceptable. The said police station was immediately intimated with respect to the accident and thus the said police station being the State machinery had an obligation to intimate the nearest concerned forest office. Thus, once the accident was not disputed and when the said GR provided for grant of compensation in case of death of a person due to attack by wild animal, it was unjust on the part of the Respondent no.2 to refuse to grant compensation.

SUBMISSIONS ON BEHALF OF RESPONDENTS:

8. There is no Affidavit in Reply filed on behalf of the Respondents. However, learned Assistant Government Pleader appearing for the Respondents submitted that the cause of death was due to head injuries, caused due to the accident. Since the cause of death was due to road accident, the said GR relied upon by the Petitioner is not applicable in the present case. He, thus, by relying upon the contents of FIR, postmortem report and spot panchanama, supported the reasons given by Respondent No.2 for rejecting the application of the Petitioner for grant of compensation.

CONSIDERATION OF SUBMISSIONS:

9. We have perused the communication/order dated 18th March 2019, issued by Respondent no.2, thereby rejecting application of the Petitioner. We have also carefully perused the said GR relied upon by the Petitioner, spot panchanama, post mortem report as well as the FIR. Perusal of all the said documents annexed to the Petition show that the spot panchanama was done by the said police station. As the panchanama records that accident was caused due to involvement of wild boar, it was the duty of the said police station to inform the nearest forest office regarding the accident. The State Government has not produced on record copy of any Government Resolution or Order which mandates that such information is to be given within 48 hours. In such circumstances, the reason given by Respondent No.2 that within 48 hours information was not given to the nearest forest officer is not acceptable. In any case, 48 hours

timeline is irrelevant so far as the claim made by the Petitioner is concerned. In any event this will not absolve the State Government from its' liability to pay compensation.

10. The reasons given by Respondent No.2, to refuse grant of compensation are not acceptable. The fact that the said police station was immediately intimated and the fact that the death was caused due to accident occurred because of an attack by the wild animal, is not disputed, hence, the reasons given by Respondent No.2 that the accident was not informed to the nearest Forest Officer in 48 hours is irrelevant. It was indeed a duty of the said police station to intimate the same to the concerned nearest forest office. The second reason given by Respondent No.2 is that as per Government Resolution, it is mandatory to carry out panchanama by local police officer and nearest forest officer within 3 days of the accident. The reason for rejecting application of Petitioner recorded by Respondent No. 2 is that in the present case the officer who conducted panchanama was below the rank of Deputy Superintendent of Police and Range Forest Officer. There is nothing produced on record to support this reason. The State Government has not disputed the correctness of the contents of the panchanama by filing any affidavit-in-reply. Perusal of the record of the Petition clearly shows that there is a direct nexus between attack by wild boar and the accident that caused death of the victim. From the panchanama it is very clear that except for the attack by wild boar there is no other cause for the accident. If there was any other cause the State Government would have said so by filing affidavit-in-reply. It is not disputed that the human life is lost in the attack by wild boar

which caused the accident. Thus, the reasons given in the impugned communication are illegal and unjustified.

11. It is necessary to note that it is the duty of the concerned officer of the State Government to protect wild animals and not allow them to wander outside the restricted safety zone. Similarly, as a corollary duty, it is also the obligation cast upon the concerned officers to protect the citizens from any injuries by the wild animals. Thus, it is a twin obligation of the State Government. The first to protect the wild life (wild animals) and the second to protect humans from any injuries caused by any wild animal. It is thus an obligation of the State Government to protect lives of the citizens guaranteed under Article 21 of the Constitution of India.

12. The object of Wild life (Protection) Act, 1972 as seen from the Preamble of the Act itself shows that the Act is to provide for the protection of wild animals, birds and plants and for matters connected therewith ancillary or incidentally thereto with a view of ensuring the ecological and environmental security of the country. Thus, as noted above it is an obligation of the State Government to protect wild life as well as protect citizens from any injury caused by wild life. Therefore, if any wild animal causes injury to any person, this in fact is a failure of the State Government to protect right to life guaranteed under Article 21 of the Constitution of India. In the present case, it is clear from the said GR that the citizens who suffer loss due to wild animals are entitled to compensation. Thus, the said GR creates an additional obligation on the State Government to protect the right to life guaranteed under Article 21 of the

Constitution of India. In our view even de hors the said GR it is the obligation of the State Government to pay reasonable compensation, as the State Government could not protect the right to life of the deceased guaranteed under Article 21 of the Constitution of India. Thus, the approach of the State Government is not acceptable and in fact is dis-heartening.

13. Mr Apte, learned senior Advocate for the Petitioner has relied upon the Judgment of Aurangabad Bench of this Court in case of *Balaji Bhujang Khansole v The State of Maharashtra and Another*.¹ Perusal of the Judgment relied upon by the Petitioner shows that the facts of that case were similar to the present case. In that case the Petitioner therein was denied benefits under Government Resolution dated 2nd July 2010. The Petitioner in the said case had prayed for compensation on account of death of his wife due to attack by a wild boar. In the said case also compensation was denied on the ground that the incident was not reported to the concerned authority within three days of the incident. This court allowed the Petition and directed the Respondent authorities to take steps to give benefit of the Government Resolution referred to therein to the Petitioner. It is necessary to note here that the said Government Resolution dated 2nd July 2010 is referred to in the said GR relied upon by the Petitioner in the present Petition. Though copy of Government Resolution dated 2nd July 2010 is not produced before us, perusal of the said GR shows that the Government Resolution dated 2nd July 2010 is the original Government Resolution which provides for grant of compensation for the loss/injury caused due to

1 Writ Petition No. 1052 of 2017 decided on 4th June 2019

attack by wild animals. Thereafter there are subsequent revised Government Resolutions and said GR relied upon the present Petitioner is the latest revised Government Resolution providing for enhanced rate of compensation. In the said case this Court observed that:

“These are genuine circumstances which are not disputed. In the circumstances, taking hyper technical approach, when the incident was not challenged, it appears that benevolent purpose under the Government Resolution should not be obfuscated.”

CONCLUSION:

14. Considering the above circumstances and having regard to the fact that the husband of the Petitioner lost his life in the accident which was caused due to attack by wild boar, it is obvious that the State machinery failed to provide the required protection to human life which is guaranteed by Article 21 of the Constitution of India.

15. We are of the considered view that the said GR relied upon by the Petitioner squarely applies to the present case as stated hereinabove. Even dehors the said GR the Respondents are under obligation to compensate the Petitioner for loss of life of her husband as the same is caused due to failure of the State machinery to protect life guaranteed under Article 21 of the Constitution of India.

16. Thus, in our opinion, Petitioner is entitled to compensation as provided under the said GR. The said GR specifically provides that when death is caused due to attack by wild animal, monetary compensation of Rs. 10 Lakhs is payable. The said GR provides for payment of a fixed amount towards compensation in case of death due to attack by wild animal and thus in our opinion Petitioner is entitled to the amount provided in the said GR. The accident is of 5th February 2019, the Petitioner made an application for compensation on 11th February 2019. The said GR does not provide for any stipulated time for payment of compensation. However, Petitioner was entitled to monetary compensation within a reasonable time, which can be construed as maximum three months from the date of her application. Petitioner is unnecessarily been denied her right to compensation. Hence, we are of the view that the Petitioner is also entitled to reasonable interest on the amount of compensation, calculated at the rate of 6 percent per annum from the expiry of three months from the date of her application till actual payment is made. It will be also necessary to direct the Respondents to make the payment of compensation within a reasonable time of maximum three months from today. The facts of the present case shows that only because of hyper technical approach of Respondent no. 2 and further inaction of the Respondent no. 1, the Petitioner was required to approach this Court. Thus, facts and circumstances of this case warrants that the Petitioner is also entitled to reasonable cost of this litigation, which is quantified at Rs. 50,000/-. Thus, for the reasons stated hereinabove we are of the opinion that the Petition is required to be allowed by directing the Respondents to pay compensation to the Petitioner.

17. Hence, following order is passed:

- (a) The communication/order dated 18th March 2019 issued by Respondent No. 2 is quashed and set aside.
- (b) Respondents are directed to pay an amount of Rs 10 lakhs to the Petitioner, within a period of three months from today, by way of compensation as per Government Resolution dated 11th July 2018 along with 6 per cent interest from the expiry of three months from date of her application i.e. 11th February 2019 till the actual payment is made.
- (c) Rule is made absolute in the above terms.
- (d) There will be cost of Rs.50,000/- payable by the Respondents to the Petitioner within a period of three months from today.
- (e) List the Writ Petition for compliance on 9th January 2023.

(Gauri Godse, J)

(G. S. Patel, J)