

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF SEPTEMBER 2019

BEFORE

THE HON'BLE MR. JUSTICE ALOK ARADHE

WRIT PETITION NO.24462 OF 2019 (GM-RES)

BETWEEN:

XXXX

... PETITIONER

(BY SMT.PUSHPAKANTHA, ADV.)

AND:

THE MEMBER SECRETARY
KARNATAKA STATE LEGAL
SERVICES AUTHORITY
NYAYA DEGULA 1ST FLGOR
H SIDDAIAH ROAD
BANGALORE – 560 027

... RESPONDENT

(BY SRI.D NAGARAJA REDDY, ADV.)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO CALL FOR RECORDS PERTAINING TO VCS NO.51/2015 DT 24.3.2018 ON THE FILE OF RESPONDENT'S AUTHORITY PERTAINING TO ANNEXURE-A; AND ETC.

THIS WRIT PETITION COMING ON FOR *PRELIMINARY HEARING IN 'B' GROUP* THIS DAY, THE COURT MADE THE FOLLOWING:-

ORDER

Smt.Pushpakantha, learned counsel for the petitioner.

Mr.D.Nagaraja, learned counsel for the respondent.

In this petition, under Articles 226 and 227 of the Constitution of India, the petitioner *inter alia* seeks a writ of certiorari for quashment of communication dated 23.05.2019, by which her claim for compensation under the Victim Compensation Scheme has been rejected. The petitioner also seeks a writ of mandamus to the Karnataka State Legal Services Authority to release an amount of compensation of Rs.7 Lakhs as per the revised scheme.

2. Facts giving rise to the filing of the petition briefly stated are that the petitioner claims to be a victim of rape which took place on 11.03.2014. On the complaint made by the petitioner, the First Information Report was lodged and after completion of the investigation the police filed the charge sheet against the accused persons. On 22.05.2015, the father of the petitioner made a representation for grant of

compensation under the Victim Compensation Scheme before District Legal Services Authority (hereinafter referred to as 'the Authority' for short). The Authority passed an award on 24.03.2018, by which the petitioner was directed to pay a sum of Rs.3 Lakhs as compensation. However, during the pendency of the proceeding before the Authority, in the criminal case which was instituted at the instance of the petitioner, petitioner as well as her father were declared hostile. Thereupon, the Karnataka State Legal Services Authority by an order dated 23.05.2019, set aside the order awarding compensation passed by the Authority on the ground that the petitioner during the course of investigation had turned hostile. In the aforesaid factual background, the petitioner has approached this court.

3. Learned counsel for the petitioner has read the order passed by the Authority and has submitted that the petitioner is entitled to grant of compensation

even if the accused is acquitted and the petitioner is declared hostile. On the other hand, learned counsel for the respondent has invited the attention of this court to para 6(3) of the scheme, and has submitted that the victim is under an obligation to cooperate with the police and the prosecution during the investigation and trial of the case and since, the petitioner was declared hostile, therefore, State Legal Services Authority has rightly recalled the order granting compensation.

4. I have considered the rival submissions and have perused the record. In exercise of powers under Section 357-A of the Code of Criminal Procedure, 1973, the State Government has framed Karnataka Victim compensation scheme 2007. Clause 6(3) and clause 7(10) of the aforesaid scheme read as under:

"6(3) The victim / claimant shall cooperate with police and prosecution during the investigation and trial of the case."

7(10) If a victim or his dependants have obtained an order sanctioning compensation under this scheme of false/vexatious/fabricated complaint which is so held by the Trial Court, the compensation awarded shall be recovered with 15% interest per annum.

5. Thus, from the perusal of the relevant clauses of the scheme, it is evident that the victim has to cooperate with the prosecution during the investigation and the trial and the complaint filed by her should not be fabricated. In the instant case, admittedly during the course of the trial, the petitioner as well as her father were declared hostile, in other words, they violated clause 6(3) of the scheme and therefore, were not entitled to seek compensation. The State Legal Services Authority has rightly held that the petitioner is not entitled to payment of compensation. The order passed by the State Legal Services Authority appears to have been passed without affording an opportunity of hearing to the petitioner. However, in the peculiar fact

situation of the case, the principles of natural justice have no application. It is well settled in law that principles of natural justice do not apply to a case where on admitted facts only one conclusion is possible. [**SEE: 'S.L.KAPOOR VS JAGMOHAN & ORS', AIR 1981 SC 136].**]

In view of preceding analysis, I do not find any merit in the case. The same fails and is hereby dismissed.

**Sd/-
JUDGE**

SS