

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 17266 of 2023

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TAHERA AHMED PATEL W/O LATE AHMED YUSUF PATEL
Versus
STATE OF GUJARAT & ORS.

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Appearance:

MR ABID R PATHAN(11217) for the Petitioner(s) No. 1
MR MOHAMMED SAKIB PATEL(13860) for the Petitioner(s) No. 1
MR ADITYA PATHAK AGP for the Respondent(s) No. 1,2,3,4,5

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CORAM:HONOURABLE MR. JUSTICE ANIRUDDHA P. MAYEE

Date : 05/05/2025

ORAL ORDER

- 1.** Rule, returnable forthwith. The leaned AGP waives service of rule on behalf of the respondents.
- 2.** The present Special Civil Application has been filed praying for the following reliefs :-

“(A) May be pleased to quash and set aside the letter/order dated 09th January, 2023 passed by respondents.

“(B) May be pleased to issue a writ, order or direction in the nature of mandamus directing and commanding respondents to allow the application and to grant financial assistance to the petitioner.

“(C) May be pleased to issue a writ, order or direction in the nature of mandamus directing and commanding the respondent to grant financial assistance of Rs.25,00,000 (Rupees Twenty Five Lakh only) to the petitioner.

“(D) May be pleased to grant any relief or pass any other order which the Hon’ble Court may consider as just and proper in the facts and circumstances of the case in favour of the petitioner.”

3. The brief facts in the present case are that the deceased Ahmed Yusuf Patel was working as Weigh-Man in Pandit Deendayal Grahak Bhandar, Government Recognized Fair Price Shop bearing Licence No.51/15 and Shop I. D. No. 21496 at Aachhod, Taluka Amod, District Bharuch. The deceased was on emergency duty pursuant to the directives issued by the State Government during Covid-19 Pandemic and was engaged in the distribution of essential commodities on behalf of the State Government during the said period. While on duty during the said period, the deceased, husband of the petitioner herein, contracted Covid-19 Pnuemonia and was accordingly, declared Covid-19 positive on 11.08.2020. The deceased came to be admitted at Al-Mohmood General Hospital, Jambusar and unfortunately, he expired due to Covid-19 complications on 12.08.2020. That the State Government, vide Government Resolution dated 24.04.2020, had passed a resolution that those employees, who were working in the Government Recognized Fair Price Shops as Weigh-Man, Data Entry Operator and Assistant and those who have expired due to Covid-19 infection while on duty, their dependent families would be entitled to the financial assistance of Rs.25 Lacs. That, in terms of the said Government Resolution, the petitioner, who is the wife of the deceased employee, made an application for getting the financial assistance of Rs.25 Lacs in terms of the Government Resolution dated 24.04.2020 along with necessary supporting documents. The Mamlatdar & Executive Magistrate, Amod has also issued the certificate on 16.10.2020 certifying that the deceased husband of the petitioner was working as Weigh-Man in the Government Recognized Fair Price Shop at Aachhod and that he expired on 13.08.2020 due to Covid-19 complications. By the impugned communication dated 09.01.2023, the said application for financial

assistance came to be rejected by the respondent No.2. Aggrieved, the petitioner has preferred the present Special Civil Application.

4. The learned counsel appearing for the petitioner submits that the deceased husband of the petitioner was working as Weigh-Man in Pandit Deendayal Grahak Bhandar, Government Recognized Fair Price Shop and was engaged in the distribution of essential commodities to the general public on behalf of the State Government. He submits that while on Covid-19 emergency duty, he was infected with Covid-19 virus and was diagnosed with Covid-19 Pneumonia. He was admitted in the Al-Mahmood General Hospital, Jambusar on 11.08.2020 and expired on 12.08.2020 due to said complications. The learned counsel submits that the Hospital, where the deceased husband of the petitioner was treated as well as the Chief District Medical Officer, General Hospital, Bharuch have certified that the reason for death of the husband of the petitioner is Covid-19 Pnuemonia. He submits that thereafter, the Mamlatdar & Executive Magistrate has issued the certificate dated 16.10.2020 stating that the late husband of the petitioner was working as Weigh-Man in the Government Recognized Fair Price Shop and has expired due to Covid-19 complication on 13.08.2020. The learned counsel further submits that the District Supply Officer, Bharuch has also issued the certificate dated 08.11.2022 certifying the fact that the petitioner was working in the Government Recognized Fair Price Shop before 30.04.2020 and has died due to Covid-19 infection on 13.08.2020. The learned counsel submits that the petitioner submitted an application for grant of financial assistance in terms of the Government Resolution dated 24.04.2020 to the Mamlatdar & Executive Magistrate, Amod along with the relevant documents. The Mamlatdar, Amod had forwarded all the relevant documents along with the application to the District Supply Officer after certifying the same with the positive opinion to grant the financial assistance.

Thereafter, the District Supply Officer verified the medical certificate of the deceased and after obtaining the opinion from the Chief District Health Medical Officer forwarded the letter with a positive opinion for grant of application for financial assistance to the Director, Food and Civil Supplies, Gandhinagar. That thereafter, the Director, Food and Civil Supplies, Gandhinagar had forwarded the said application of the petitioner along with necessary documents and recommendation of the district officials to the Deputy Secretary, Food and Civil Supplies and Consumer Affairs Department with a positive opinion to allow the application of the petitioner for grant of financial assistance, being the dependent family member of the deceased employee. That thereafter, by the impugned communication dated 09.01.2023, the respondent No.2 Director of Food and Civil Supplies has informed regarding the rejection of the application by the State Government. The learned counsel submits that it is not in dispute and duly certified by the District Officials that the deceased husband of the petitioner was working in the Government Recognized Fair Price Shop before 30.04.2020 and was engaged in the distribution of the essential commodities during Covid-19 pandemic. Further, there is no dispute that the husband of the petitioner has died due to Covid-19 infection. The learned counsel submits that despite positive opinion and endorsement by the District Officials endorsing the said fact as well as the Director, Food and Civil Supplies Department, Gandhinagar, the State Government has rejected the application on irrelevant consideration. The learned counsel further submits that the application for financial assistance was submitted by the petitioner to the State Government through proper channel. The learned counsel submits that the application has been rejected for no fault of the petitioner. The learned counsel submits that the petitioner is entitled for financial assistance in terms of the Government

Resolution dated 24.04.2020. The learned counsel, therefore, submits that the impugned communication dated 09.01.2023 be quashed and set aside and the petitioner be granted the financial assistance in terms of the Government Resolution dated 24.04.2020.

5. Per contra, the learned AGP appearing for the respondents submits that the Government Resolution dated 24.04.2020 has clearly stated that the list of employees working in the Government Recognized Fair Price Shops during Covid-19 Pandemic in various districts of the State have to be submitted to the Food and Civil Supplies Department till 30.04.2020. The learned AGP submits that in the present case, the list of such employees, who were working in the Government Recognized Fair Price Shops during Covid-19 in Bharuch District, was sent by the District authorities only on 20.11.2020. He submits that since such list of employees was not submitted within the stipulated time, no financial assistance could be granted to the deceased employees in absence of such list. The learned AGP submits that the application of the petitioner has rightly been rejected. He submits that in the communication, the respondent No.2 has even sought an explanation from the respondents Nos.3 and 4 for non-submission of such list of employees, who were working in the Government Recognized Fair Price Shop during Covid-19 Pandemic within the stipulated time. The learned AGP, therefore, submits that the Writ Petition be dismissed.

6. Heard the learned counsels for the parties, considered the submissions and perused the documents on record.

7. By the Government Resolution dated 24.04.2020, the State Government has extended the financial assistance to the family of those deceased employees who were engaged in the distribution of

essential commodities during Covid-19 Pandemic and were working as Weigh-Man, Data Entry Operator and Assistant in Fair Price Shop. The said Resolution further directed all the District Supply Officers to make a list of such employees who were engaged and employed in the Government Recognized Fair Price Shops in the respective districts during the Covid-19 Pandemic and send the same to the State Government by 30.04.2020 along with necessary details of such employees like Adhar Card, address and date of birth.

8. In the present case, it is not in dispute that the husband of the petitioner was working as Weigh-Man in Pandit Deendayal Grahak Bhandar, Government Recognized Fair Price Shop bearing Licence No.51/15 and Shop I. D. No. 21496 at Aachhod, Taluka Amod, District Bharuch. The husband of the petitioner was engaged in the distribution of essential commodities to the general public on behalf of the State Government and was on emergency duty during Covid-19 Pandemic.

9. It is also not in dispute that the husband of the petitioner was diagnosed as Covid-19 positive on 11.08.2020 and came to be admitted in Al-Mahmood General Hospital, Jambusar and thereafter, has expired due to Covid-19 complications on 12.08.2020. The certificate issued by Al-Mahmood General Hospital, Jambusar has also been certified by Chief District Medical Officer, General Hospital, Bharuch. On an application being made for financial assistance in terms of the Government Resolution dated 24.04.2020 by the petitioner herein being the dependent family member of the deceased to the Mamlatdar, Amod, the said application came to be duly processed by the respondent No.4 Mamlatdar after verifying the facts and he has issued the certificate dated 16.10.2020 certifying that the late husband of the petitioner was working as Weigh-Man in Pandit Deendayal Grahak Bhandar, Government

recognized Fair Price Shop bearing Licence No.51/15 and Shop I. D. No. 21496 at Aachhod, Taluka Amod, District Bharuch. The death certificate attached with the application also came to be certified. Thereafter, the said application of the petitioner was forwarded to the respondent No.3 District Supply Officer, Bharuch with a positive endorsement for grant of financial assistance. The respondent No.3 District Supply Officer, upon receipt of the application from the respondent No.4 Mamlatdar, processed the same at his end and after verifying the relevant documents attached with the application as well as after getting a positive opinion from the Chief District Medical Officer endorsed the said application with a positive opinion for grant of financial assistance, to the respondent No.2 Director Food and Civil Supplies, Gandhinagar. The respondent No.2 Director, after verifying the said application of the petitioner along with positive endorsement given by the respondent No.4 Mamlatdar and the respondent No.3 District Supply Officer, has also given a positive opinion and forwarded the same with a positive endorsement to the State Government on 18.11.2020. However, the State Government declined the application of the petitioner on the ground that the list of employees, who were working in the Government approved Fair Price Shops in the Bharuch District, was forwarded by the respondent No.3 District Supply Officer only on 20.01.2020, which was beyond the time prescribed as per the Government Resolution dated 24.04.2020. Accordingly, the application of the petitioner for grant of financial assistance came to be declined.

10. A perusal of the impugned communication dated 09.01.2023 reveals that the application for financial assistance by the petitioner has not been rejected on merits. The only reason stated for rejection is that the respondent No.3 District Supply Officer had defaulted in his duty to send the list of employees engaged in Covid-19 Pandemic emergency duty before 30.04.2020. In the present case,

it is not in dispute that the deceased husband of the petitioner was working as Weigh-Man (Tolaat) in Pandit Deendayal Grahak Bhandar, Government Recognized Fair Price Shop bearing Licence No.51/15 and Shop I. D. No. 21496 at Aachhod, Taluka Amod, District Bharuch and he had died due to Covid-19 infection on 13.08.2020 while on duty. It has also been duly certified by the respondent Nos.2, 3 and 4 that late husband of the petitioner was working as an employee in the said Fair Price Shop before 30.04.2020 in terms of the Government Resolution dated 24.04.2020. Further, as per the impugned communication, the list of employees working in the Government Recognized Fair Price Shop in the District of Bharuch as on 30.04.2020 was forwarded by the respondent No.3 District Supply Officer to the State Government only on 20.11.2020. The said list has been duly certified by the respondent authorities and has been sent to the State Government in official capacity as required. The application of the petitioner for financial assistance being the dependent family member of the deceased has been endorsed by the respondent Nos.2,3 and 4.

11. The Government Resolution dated 24.04.2020 states that the financial assistance of Rs.25 Lacs shall be granted by the State Government to the dependent family members of those employees who were working as Weigh-Man, Data Entry Operator and Assistant in the Government Recognized Fair Price Shop and who are engaged in the emergency duty of distribution of essential commodities to the general public at large on behalf of the State Government and who have expired due to Covid-19 virus infection while on such emergency duty. The said Resolution further directs the District Supply Officers of all districts in the State to forward a list of such employees along with their address, date of birth, Adhar Card number to the Director, Food and Civil Supply by 30.04.2020. As per the said Government Resolution, the essential conditions for grant

of financial assistance to the dependent family members of the deceased employee was that he must be working in the Government Recognized Fair Price Shop as Tolaat, Data Entry Operator or Assistant during Covid-19 Pandemic and engaged in the distribution of essential commodities to the general public on behalf of the State Government during the said period and that such employee has expired due to Covid-19 virus infection. In the present case, the deceased husband of the petitioner fulfilled all the criteria as mentioned in the Government Resolution dated 24.04.2020, that is, (i) He was working as Weigh-Man/Tolaat in the Government Recognized Fair Price Shop, (ii) He was engaged in the distribution of essential commodities to the general public on behalf of the State Government during Covid-19 Pandemic, and (iii) He has expired due to Covid-19 Pneumonia infection while on such duty.

12. The said Government Resolution further directs the District Supply Officers of all the districts in the State on the administrative side to forward the list of such employees along with their necessary details to the respondent No.2 Director, Food and Civil Supply by 30.04.2020. The direction in the Resolution is an administrative direction and not essential condition for grant of financial assistance. In the considered opinion of this Court, the respondent State Government has erred in rejecting the application of the petitioner for financial assistance in terms of the Government Resolution dated 24.04.2020 despite fulfillment of all the parameters laid down in the said Government Resolution. The respondent No.1 erred in rejecting the application of the petitioner in view of administrative direction which was issued to the respective District Supply Officers of all the districts in the State for extending such benefits. The said administrative direction was not an eligibility condition for grant of financial assistance. In the

present case, the respondent Nos.2,3 and 4 had already positively endorsed the application of the petitioner for grant of financial assistance in terms of the Government Resolution dated 24.04.2020 as it fulfilled all the conditions of eligibility for such grant of financial assistance. Further, the petitioner cannot be made to suffer for the default on the part of the respondent authorities. The said Government Resolution confers financial benefits as a benevolent resolution acknowledging the contribution of such employees who have expired while performing essential services during the Covid-19 pandemic on behalf of the State Government.

13. In view thereof, the impugned communication dated 09.01.2023 rejecting the application of the petitioner for grant of financial assistance in terms of the Government Resolution dated 24.04.2020 is quashed and set aside. The petitioner is declared to be eligible for grant of financial assistance of Rs.25 Lacs in terms of the Government Resolution dated 24.04.2020. The respondent Nos.1 and 5 are directed to grant the financial assistance of Rs.25 Lacs to the petitioner in terms of the Government Resolution dated 24.04.2020 within a period of six weeks from the date of receipt of this order. The Writ Petition stands allowed accordingly.

14. Rule is made absolute to the aforesaid extent.

No order as to costs.

Direct service is permitted.

(ANIRUDDHA P. MAYEE, J.)

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