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IN THE HIGH COURT OF ORISSA, CUTTACK

W.P.(C) No.11144 of 2024

Ramamani Rout ..... Petitioner

-Versus-

State of Odisha & Ors. ..... Opposite Parties

Advocate for the parties

For Petitioner : Ms. A. Dash, Advocate

For Opposite Parties : Mr. B. Panigrahi, Addl. Standing Counsel

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CORAM: JUSTICE SANJAY KUMAR MISHRA

Date of Hearing: 24.09.2024 Date of Judgment: 30.09.2024

S.K. MISHRA, J.

1. The short fact leading to filing of the present Writ Petition is that the Petitioner being an old widow lady, after the death of her husband, in the year of 2016-17 applied under the Pradhan Mantri Awas Yojana-Gramin, shortly, 'PMAY-G', before the Sarpanch, Khaira Gram Panchyat (O.P. No.4). After repeated visits to the Office of the Opposite Party

No. 04, finally in the year of 2021 an enquiry was conducted. The ground staff of the concerned authority, after finding her to be eligible, included her name in the beneficiary list and the same was registered as OR1578603 for construction of a new house under the PMAY-G.

2. Despite registration of her name as a beneficiary, after waiting for a considerable period of time, as she was unable to get the sanctioned amount, on 14.11.2023 she filed an application under the Right to Information Act, 2005 shortly, 'RTI Act', to get the information regarding the beneficiary allotment for the years 2016-18 under the PMAY-G under the Khaira Block. On 21.11.2023 the Public Information Officer (PIO) of Khaira Panchayat Samiti intimated her that all the information are available in the website i.e. www.pmayg.nic.in.

3. After getting the said reply from the PIO, the Petitioner, through the concerned website, came to know that there was a sanction in her favour vide sanction Id No. ORO5010/4/464 dated 04.04.2017, wrongly reflecting the name of Opposite Party No.5.

4. Knowing so, she gave grievance petition before the Collector, Balasore (O.P.No.2), BDO, Khaira (O.P. No.3) and Sarpanch, Khaira GP (O.P. No.4). Finally, she submitted her representation on 19.02.2024 before the Opposite Party No.2, which got registered in the Collector Grievance Cell, vide Diary No. 552. But no efficacious action has been taken on such grievance petition till date.

5. The further case of the Petitioner is that though more than 7 years have elapsed in the meantime, she is yet to receive the benefits in terms of the said scheme despite her approach to various Govt. officials time and again. The legislative intend behind such Yojana even though was to facilitate access to affordable housing for the low and moderate income residents of the country, she has been deprived of such benefits, which is one of the fundamental rights guaranteed under the Constitution of India.

6. It is also case of the Petitioner that under the registration number of the Petitioner i.e. OR1578603, the name of the Opposite Party No.5 has been wrongly reflected, which is grossly illegal and arbitrary and deserves interference of this Court.

7. Being directed, the BDO, Khaira (O.P. No.3) has filed a Counter Affidavit, on behalf of the Collector, Balasore (O.P.No.2) so also for himself, indicating therein that the Government of Odisha prepared a permanent wait list (PWL) in the financial year 2016-17 as per Census, 2011 wherein the name of Ramamani Rout, wife of Banamali Rout of village Natapada was available in the list of beneficiaries. However, Minati Rout (O.P.No.5), W/o Banamali Rout of Village-Natapada submitted a written document stating therein that she is Ramamani Rout @ Ramarani Rout, wife of Banamali Rout. But in the PMAY-G list her husband's name has been wrongly mentioned as Bhaskar Rout, instead of Banamali Rout and father's name as Purusottam Das, instead of Dinabandhu Nayak. As Ramamani Rout and Ramarani Rout is the same and one person, the Work Order under PMAY-G may kindly be issued in her favour. As the Opposite Party No.3 refused to sanction the same, she sweared an Affidavit before the Notary Public, Soro, Balasore and produced the same stating therein that Ramamani Rout W/o- Banamali Rout, s/o- Dinabandhu Nayak so also Ramarani Rout W/o- Bhaskar Rout and s/o- Purushottam Das are one and same.

8. On filing the said Affidavit, the then BDO, Khaira instructed the Panchyat Executive Officer, in short, PEO, Khaira Gram Panchayat to verify and enquire the matter and submit a report. The PEO, Khaira G.P. submitted the Enquiry Report stating therein that the facts detailed by Ramamani Rout are true. The PEO, Khaira G.P., namely, Pankaj Kumar Dhada, submitted a report bearing signatures of some of the villagers of Village Natapada stating therein that after verification he found the Affidavit dated 13.03.2017 sworn by Ramamani Rout to be true. Basing on such report dated 16.03.2017 of the PEO so also his Enquiry Report and Affidavit of Ramamani Rout, the then BDO, Khaira issued the Work Order dated 23.03.2017 in favour of Ramamani Rout @ Ramani Rout.

9. However, after getting the representation from the Petitioner that the Opposite Party No.5 has availed the benefit under PMAY-G by practicing forgery, the BDO, Khaira issued show cause notice to the then PEO, Khaira G.P. namely, Pankaj Kumar Dhada as to why disciplinary action shall not be taken against him for submitting such wrong information, based on which Ramani Rout has been allotted house under

the said scheme, whereas the real beneficiary namely, Ramamani Rout (present Petitioner) has been debarred from getting the benefit. It has also been stated in the Counter that the B.D.O., Khaira vide letter dated 31.03.2024 also directed the present Opposite Party No.5 to deposit Rs. 1,20,000/- along with Rs.1057/- towards wages under MGNREGS within seven days, as she has availed the said amount by producing false affidavit.

10. Apart from the same it has also been admitted in the Counter Affidavit filed by the BDO, Khaira that the Petitioner is the beneficiary under the PMAY(G), but due to forgery/false document submitted by Opposite Party No.5, she could not avail the benefit under the PMAY(G). It has been undertaken in the Counter that her name will be included in the beneficiary list on priority basis in the next inclusion list of RH Portal.

11. Learned Counsel for the Petitioner, reiterating the averments made in the writ petition and drawing attention of this Court to the documents appended to the Counter Affidavit filed by the State, submitted that application of the Petitioner was processed under the said Scheme and her

name has already been included in the beneficiary list. Though the money has been sanctioned and disbursed, but in favour of the Opposite Party No.5 because of the fraud committed by her in connivance with the Ex-PEO, Khaira block namely, Pankaj Kumar Dhada. Though the BDO, Khaira has asked the Ex-PEO, Khaira Block to show cause as to why necessary action shall not be taken against him for negligence in duty, the Opposite Party No.5 has been simply asked to refund the said amount along with the money spent towards wages for construction of the house, instead of taking action against all the culprits for indulging into such a fraudulent act.

12. Apart from that, once the money has been sanctioned and disbursed in her name, but wrongly released in favour of the Opposite Party No.5, the Petitioner being a widow of 55 years old and waiting to get the benefit under the PMAY-G since 2016-17, should not be asked to wait further and re-apply for inclusion of her name under the extended Scheme afresh, which may cause further delay to get such benefit under the scheme. That apart, since the name of the Petitioner has already been included in the beneficiary list

with land details, being so applied along with the necessary documents, her name cannot be included again in the beneficiary list in the said portal.

13. Per contra, learned Counsel for the State, drawing attention of this Court to a recent communication dated 21.08.2024 made by the Director, Special Project, Government of Odisha, Panchayati Raj & D.W. Department, addressed to all Collectors, CDO-Cum-EO, Zilla Parishad regarding implementation of PMAY-G up to 2028-29, a copy of which was filed in the Court during hearing, submitted that though the portal for online inclusion of name of the beneficiaries was closed since 2019, now the said process has restarted and steps will be taken for inclusion of the name of the Petitioner in terms of the undertaking, as detailed in the Counter Affidavit.

14. In view of such submissions made by the learned State Counsel, it would be apt to reproduce below para-6 of the Counter Affidavit so also the contents of the Circular dated 21.08.2024, as detailed above:

Extract from the Counter

6. "That it is humbly submitted that as present ***Petitioner is a beneficiary of PMAY(G) but due to forgery/false documents submitted by Opposite Party No.5, she could not avail PMAY(G)****, present deponent undertakes to include her name on priority basis in the next inclusion list of RH Portal."*

(Emphasis supplied)

Government of Odisha Panchayati Raj & D.W. Department

"No.PR-RH-PMAYG-0004-2023-19101/PR&DW ***Date: 21.08.2024***

From

Jyoti Prakash Das, IAS,
Director, Special Project

To

All Collectors.
All CDO-cum-EO, Zilla Parishad

Sub: Implementation of PMAY-G upto 2028-29 and modification in the exclusion criteria.

Madam/Sir,

I am directed to say that Union Cabinet has approved implementation of PMAY-G for 5 more years from 2024-25 to 2028-29. Letter from MoRD, GoI to this effect is enclosed for your reference.

The exclusion criterias during identification of the beneficiaries have been modified as follows:

1. *Motorised three/four wheeler*
2. *Mechanised three/four wheeler agricultural equipment*
3. *Kisan Credit Card with credit limit of Rs. 50,000 or above*
4. *Household with any member as a Government employee.*
5. *Households with non-agricultural enterprises registered with the Govt.*
6. *Any member of the family earning more than Rs.15,000 per month*

7. *Paying Income tax*
8. *Paying professional tax*
9. *Own 2.5 acres or more of irrigated land*
10. *Own 5 acres or more of unirrigated land*

The survey to identify the left out eligible HH will be allowed shortly by MoRD. The survey will be carried out in Awaas+ App through face based authentication*. The credentials of the surveyor will be captured and uploaded in Awaas+ App. Facilities have been provided in Awaassoft to enter the details of the surveyor which should be completed by 22.08.2024."*

(Emphasis supplied)

15. From the Circular, as extracted above, it is amply clear that the Union Cabinet has approved implementation of PMAY -G for five more years i.e. 2024-25 to 2028-29, with modified exclusion criteria for identification of the eligible list of HH, as detailed vide the said Circular.

16. That apart, it has been indicated in the said Circular dated 21.08.2024 that the survey to identify the left out eligible HH will be carried out shortly by MoRD and the survey will be carried out in Awaas+App through face based authentication. The credentials of the surveyor will be captured and uploaded in Awaas+App. Facilities have been provided in Awaassoft to enter the details of the surveyor, which should be completed by 22.08.2024. Admittedly, such Scheme i.e. PMAY-G, for five more years for 2024-25 to 2028-29 is meant for inclusion of name of left out/ new

beneficiaries with modified exclusion criteria, as detailed above.

17. As is revealed from the documents appended to the Counter filed by the State, the Opposite Party No.5 gave a false declaration followed by false Affidavit impersonating her to be the real beneficiary under the PMAY-G Scheme, though the Petitioner is the beneficiary. Being directed by the B.D.O., Khaira, a false Inquiry Report was submitted by the then P.E.O. namely, Pankaj Kumar Dhada. Part-B and Part-C of the said Report, vide which the Opposite Party No.5 and the concerned P.E.O. gave their respective declaration and undertaking in Odia, being relevant, are extracted below.

"Part - B

ମୁଁ ଶ୍ରୀ ଶ୍ରୀମତୀ ରମାମଣୀ ରାଉତ
ପିତା /ସ୍ୱାମୀ ବନମାଳୀ (ପୁରୁଷୋତ୍ତମ) ଗ୍ରାମ ନଟପଡା
ଏତଦ୍ୱାରା ଦର୍ଶାଉଅଛି ଯେ
ମୋ ଉପସ୍ଥିତିରେ ଉପରୋକ୍ତ ଅନୁସନ୍ଧାନ କରାଯାଇଅଛି ।

ଯଦି ଅନୁସନ୍ଧାନ ସମୟରେ କୌଣସି ଭୁଲ ତଥ୍ୟ ଅନୁସନ୍ଧାନ ଅଧିକାରୀଙ୍କୁ ଯୋଗାଇଥାଏ ଏବଂ ପରବର୍ତ୍ତୀ ସମୟରେ ଲୋକ ଲୋଚନକୁ ଆସେ ତେବେ ଆଇନ ଅନୁସାରେ ଦଣ୍ଡିତ ହେବି ଏବଂ ମୁଁ ଏହି ଯୋଜନାରେ ପାଇଥିବା ସମସ୍ତ ଅର୍ଥ ଫେରସ୍ତ କରିବି ଅଥବା O.P.D.R. Act ଅନୁଯାୟୀ ଏହା ମୋ ଠାରୁ ଆଦାୟ କରାଯିବ ।

L.T.I of Ramamani Rout
ତା ..... ରିଖ (ହିତଧାରୀଙ୍କ ସ୍ୱାକ୍ଷର / ଟିପ ଚିହ୍ନ)

Part - C

ମୁଁ ଶ୍ରୀ ଶ୍ରୀମତୀ P.K. Dhada (ପଦବୀ) P.E.O ନିଶ୍ଚିତ ରୂପେ ଦର୍ଶାଉଅଛି ଯେ ଉପରୋକ୍ତ ଅନୁସନ୍ଧାନ ମୁଁ ନିଜେ ସଠିକ ରୂପେ ସମ୍ପାଦନ କରିଅଛି । **ଯଦି ଭବିଷ୍ୟତରେ ଏଥିରେ କୌଣସି ଅନ୍ତର ଏବଂ ଭୁଲ ତଥ୍ୟ ପରିଲକ୍ଷିତ ହୁଏ ତେବେ ଆଇନ ଅନୁଯାୟୀ ଦଣ୍ଡିତ ହେବି ଏବଂ ସମ୍ପୃକ୍ତ ହିତାଧିକାରୀ ଗୃହନିର୍ମାଣ ନିମନ୍ତେ ପାଇଥିବା ସମସ୍ତ ଅର୍ଥ ଆଇନ ଅନୁଯାୟୀ ଭରଣା କରିବି ।**

ସ୍ୱାକ୍ଷର/-

ତା ..... ରିଖ (ଅନୁସନ୍ଧାନ ଅଧିକାରୀଙ୍କ ସମ୍ପୂର୍ଣ ସ୍ୱାକ୍ଷର)

ପଦବୀ.....”

(Emphasis supplied)

Similarly, contents of the false Affidavit sworn by the Opposite Party No.5, based on which the B.D.O., Khaira has committed such a mistake, being relevant, is extracted below:

“BEFORE THE NOTARY PUBLIC, SORO, BALASORE

AFFIDAVIT

I Smt. Ramamani Raut aged about years w/o Banamali Raut of village Natapada, po/ps. Khaira, Dist. Balasore, do hereby solemnly affirm and state as follows.

1. That, I am the deponent of this affidavit and the permanent inhabitant of the above mentioned address.
2. That, in P.M.A.Y list my name has been mentioned Ramamani Raut.
3. That, in Aadhaar Card my name has been mentioned Ramamani Raut.
4. That, my husband’s actual name is Banamli Raut S/o Dinabandhu Nayak but in P.M.A.Y list my father name has been mentioned Bhaskar Das S/o Purusottam Das.
5. That, I am one and same person in the name of Ramamani Raut and Ramarani Raut w/o Banamali and Bhaskar of village Natapada.

6. That, this affidavit will produced it before appropriate authority for my future needful.

L.T.I. of Ramarani Raut

VERIFICATION

The above named deponent do hereby declare that the above facts of the affidavit are true to the best of my knowledge and belief.

Notary Public, Soro"

18. From the discussions made above, this Court is of the view that once the application of the Petitioner under the PMAY-G, after verification, was accepted and her name was included in the beneficiary list under the Scheme, the Petitioner should not be asked to wait further for inclusion of her name under the extended Scheme in terms of the said Circular dated 21.08.2024. Admittedly the work order was illegally issued in favour of the Opposite Party No.5 because of impersonation and money sanctioned under the Scheme was also illegally released in favour of the Opposite Party No.5, who has already been asked to refund the said amount.

19. Admittedly, because of the fraud committed by the Opposite Party No.5, in connivance with the Ex-PEO, Khaira, the BDO, Khaira has committed mistake by making necessary rectification in the beneficiary list so also by

releasing the sanctioned amount under the said Scheme in favour of the Opposite Party No.5. As detailed in the Counter, steps have been taken against the concerned PEO for initiation of appropriate action for such type of wrongdoing and the Opposite Party No.5 has also been asked to refund the money. It is worthwhile to mention that, pursuant to Order dated 08.05.2024, though notice was duly issued to the Opposite Party No.5, as per the noting of the postal department on the returned envelope, she refused to receive the notice.

20. In view of the deliberations detailed above, this Court is of the view that, the Petitioner being a widow, who is waiting since 2016-17 for getting the benefit under the PMAY-G Scheme, it would not be appropriate to ask her to wait further for inclusion of her name afresh under the PMAY-G Scheme. Rather, she should be paid the sanctioned amount in terms of the PMAY-G Scheme by issuing a fresh work order in her name without waiting till the recovery of the money from the Opposite Party No.5.

21. Accordingly, the B.D.O., Khaira Block, Khaira (Opposite Party No.3) is directed to issue work order and

release the money in favour of the Petitioner in terms of the PMAY-G Scheme within a period of four weeks from the date of production of the certified copy of this order. The Collector, Balasore (Opposite Party No.2) is directed to ensure the same.

22. The Collector, Balasore (Opposite Party No.2) is further directed to take necessary steps for initiation of certificate preceding against Minati Rout, W/o Late Banamali Rout (Opposite Party No.5) so also the concerned P.E.O. namely, Pankaj Kumar Dhada, for recovery of money illegally released in favour of the Opposite Party No.5., in terms of the undertakings given by both of them, as have been extracted above.

23. The Superintendent of Police (Vigilance), Balasore Division, Balasore, is directed to investigate into the matter and proceed against the culprits in accordance with law at the earliest, preferably within a period of six months hence.

24. The Office is directed to communicate copy of this order to the Superintendent of Police (Vigilance), Balasore so also the Collector, Balasore along with photocopy of the Writ Petition so also Counter filed by the State to do the needful, as directed above.

25. The State of Odisha, represented through the Secretary, Panchayati Raj & D.W. Department is directed to pay Rs.20,000/- (Rupees twenty thousands) to the Petitioner towards cost, who is a destitute widow, within six weeks hence to compensate the humiliation and hardship caused to her due to the misconduct and negligent act of the State officials, to be recovered from the salary of the concerned officials found responsible for the said laches .

26. With the said observation and direction, the Writ Petition stands allowed and disposed of.

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S.K. MISHRA, J.

Orissa High Court, Cuttack.
Dated, 30th September, 2024 / Banita