

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1178 of 2014

1. Tiharu Ram S/o Shri Devsingh Gond Aged About 45 Years
2. Basanta Bai W/o Late Ghurau Ram Aged About 45 Years

Both R/o Village Mahud (B), Tahsil Gunderdehi, Distt. Balod C.G.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Agriculture And Fishery Department Mahanadi Bhavan, Mantralaya, New Raipur, District Raipur (C.G.)
2. Commissioner, Durg Division, Durg, District Durg. C.G
3. The Collector Balod, District Balod C.G.
4. The Sub Divisional Officer (R), Balod Distt. Balod C.G.
5. Deputy Director, Fisheries Industry Durg. Distt. Durg. C.G.
6. Sarpanch Gram Panchayat Mahud (B) Tahsil Gunderdehi, Distt. Balod C.G.
7. Secretary Gram Panchayat Mahud (B) Tahsil Gunderdehi, Distt. Balod C.G.
8. Chain Singh S/o Dallu Nishad
9. Shantanu S/o Churawan Nishad
10. Manjit S/o Shri Bhagela Nishad

No. 8 to 10 are R/o Village Mahud (B), Tahsil Gunderdehi, Distt. Balod C.G.

---- Respondent

For Petitioners	Mr. B.P. Singh, Advocate
For Respondent/State	Mr. Avinash Singh, Panel Laywer
For Respondents 8 to 10	Mr. Jitendra Gupta, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

2/11/2015

Heard finally with the consent of learned counsel for the parties.

(2) The issue involved in this petition lies in narrow compass. Gram Panchayat Mahud (B), Janpad Panchayat Gunderdehi District Durg (Now District Balod) invited applications from intending applicants for obtaining lease of fishing rights of Bazaar Talab. In its meeting dated 03.11.2011, the Gram Panchayat recommended petitioners' name for grant of lease and the joint application of respondents 8 to 10 was rejected on the ground that No Dues Certificate was submitted by them after the due date i.e. on 28.07.2011/30.07.2011, as mentioned in the Proclamation (Annexure P/4 & P/5).

(3) Challenging the said resolution, respondents 8 to 10 preferred appeal before the SDO(R), Balod, which was allowed on 04.04.2012 and the matter was remitted back to the Gram Panchayat for fresh consideration in accordance with law. The appeal preferred by the petitioners was dismissed by the Collector, Balod on 12.10.2012 and the revision application was dismissed by the Commissioner, Durg on 29.05.2014. It is against the said orders, the petitioners have preferred this writ petition.

(4) Sub Divisional Officer (R) has recorded a categorical finding that the No Dues Certificate submitted by respondents 8 to 10 was signed by the Panchayat on 18.07.2011, whereas, the No Dues Certificate submitted by the petitioners was issued on 25.07.2011. Therefore, if the subsequently issued No Dues Certificate could have been

considered in favour of the petitioners, the said yardstick should have been applied for respondents 8 to 10 also, and hence, the same having not been done, the decision is arbitrary.

(5) At this stage, Mr. Singh, learned counsel for the petitioners would submit that even otherwise, respondents 8 to 10 do not belong to members of BPL family, as their names are not included in the Survey List, therefore, they were not entitled for consideration of their applications.

(6) This ground has not been considered by the Gram Panchayat to declare respondents 8 to 10 as ineligible. However, if any such ground exists, it will remain open for the Gram Panchayat to consider this aspect including all other relevant aspects of the matter at the time of fresh consideration.

(7) In the opinion of this Court, three subordinate quasi judicial authorities including the appellate and revisional authorities having passed the orders concurrently, there is no scope for interference with the impugned order in this petition under Article 226 of the Constitution of India.

(8) Accordingly, the writ petition is dismissed, subject, however, to the observations mentioned above. The Gram Panchayat shall take decision in the matter, at the earliest, preferably within a period of 3 months from the date of receipt of certified copy of this order.

Sd/-

Judge

(Prashant Kumar Mishra)