

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.24087 of 2013

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1. Arvind Kumar Yadav S/O Shiv Shankar Yadav Resident Of Village - Larma,
P.O. Karmnasa, P.S. Durgawati District - Bhabhua (Kaimur)

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Water Resources Department, Govt. Of Bihar, Patna
3. The Dy. Secretary Water Resources Department Govt. Of Bihar, Patna
4. The Engineer - In - Chief, Water Resources Department Govt. Of Bihar, Patna
5. The Chief Engineer Water Resources Department Dehri (Bihar)
6. The District Magistrate Bhabhua District - Bhabhua (Kaimur)
7. The Superintending Engineer, Water Road Circle Bhabhua (Bihar)
8. The Executive Engineer, Water Road Division Mohania (Bihar)
9. The Executive Engineer Jamania Pump Nahar Division Ramgarh (Bihar)
10. The Circle Officer Durgawati, District - Kaimur (Bhabhua)

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dharendra Kumar, Advocate.

For the Respondent/s : Mr. Abhay Shankar Jha, Advocate.

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL JUDGMENT

Date: 18-07-2016

Heard the counsel for the petitioner as well as the State.

The land of the petitioner's family was acquired by the State respondents for running the pump house under Larma Pump Nahar project. According to the Government resolution dated 18.9.1993 (Annexure-1) a family losing the entire land in such process was placed under Category no.1 for offering Class-III/Class-IV employment in the State Government. The petitioner was issued a certificate to this effect by the respondent Circle Officer (Annexure-11). As the case of the petitioner was not being considered , he filed a

writ petition vide CWJC No. 3461 of 2009. A Bench of this Court, disposed of the writ application on 24.3.2009 directing as under:-

“Keeping the above in mind the writ application stands disposed of with a direction upon the respondent no.9 the Executive Engineer that he shall either take a decision at his level or ensure that a decision is taken by the competent authority within a period of three months from the date of communication/production of a copy of this order on the issue of providing employment to the petitioner in the above circumstances. Decision taken will be duly communicated to the petitioner in the above time frame.”

As the said order was not complied with within the time a contempt application was filed vide MJC No. 3828 of 2012. During pendency of the application, the respondents cancelled the displacement certificate issued by the Circle Officer vide communication dated 08.08.2013 and thereafter rejected his claim vide another order dated 13.08.2013 (Annexure-13). The Contempt application was accordingly disposed of permitted the petitioner to assail those orders. Hence the writ petition.

It has been submitted that if the respondent was not satisfied with the certificate issued by the Circle Officer with regard to the displacement of the family of the petitioner an enquiry ought to have been made to ascertain the claim of the petitioner. Without doing



so, the respondents have arbitrarily cancelled the certificate issued by the Circle Officer and/or refused to consider the claim of the petitioner on the basis of the said certificate. Under the Government resolution (Annexure-1), the family of the petitioner is categorized in category-1. Even otherwise one person in the family of the petitioner would be entitled to consideration of appointment on Class-III /Class-IV post under different category. It has not been done in the case and the case of the petitioner has arbitrarily been rejected/turned down.

Learned counsel for the State, on the other hand, only submit that as the petitioner failed to produce the certificate indicating the category to which he belongs, the consideration of his claim was denied.

The certificate issued by the Revenue Authority cannot be cancelled by an officer of different Authority. If there was any doubt an enquiry could have been made or a fresh certificate ought to have been obtained, if need be. This was not done in the case of the petitioner. Resultantly, a legal right vested in him pursuant to the resolution of the Government (Annexure-1) appears to have been breached.

In the circumstances, this Court directs reconsideration of

the matter by the competent/appropriate authority of the Water Resources Department, Govt. of Bihar in accordance with law. Such consideration on a fresh application to be filed by the petitioner should be made within a maximum period of 02 months from the date of filing of the application. In taking fresh decision, the concerned respondent shall not be precluded in any manner by the orders/communication contained in Annexures 12 and 13 of the present writ petition.

(Kishore Kumar Mandal, J)

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