

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 22 of 2016

1. Vishwanath S/o Late Shri Kripal Lodhi, Aged About 60 Years R/o Village Kandai, Post Ninawa, Block Saja, Thana Bemetara, District Bemetara, (Chhattisgarh)
2. Chainu, S/o Late Shri Mahettar Lodhi, Aged About 65 Years R/o Village Kandai, Post Ninawa, Block Saja, Thana Bemetara, District Bemetara, (Chhattisgarh)

---- Petitioners

Versus

1. Khilesh Patel S/o Shri Dushyant Patel, Aged About 45 Years R/o Village Kandai, Post Ninawa, Block Saja, Thana Bemetara, District Bemetara, (Chhattisgarh)
2. Additional Commissioner, Durg Division, Division And District Durg (Chhattisgarh)
3. Collector, Bemetara, District Bemetara, (Chhattisgarh)
4. Chief Executive Officer, Matasya Krishak Vikas Abhikaran, Durg, District Durg, (Chhattisgarh)
5. Gram Panchayat Kandai, Through Its Secretary, Tahsil Saja, District Bemetara, (Chhattisgarh)
6. Sarpanch Of Gram Panchayat Kandai, Tahsil Saja, District Bemetara, (Chhattisgarh)

---- Respondents

Shri Vinay Pandey, counsel for the petitioner/s.
Shri P.P.Sahu, counsel for respondent No.1.
Shri C.R.Sahu, counsel for gram panchayat, Kandai.
Ms. K. Tripti Rao, Panel Lawyer for the State.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

18/02/2016

Heard on admission

This petition has been filed by the petitioner against order dated 26/12/2015 by which the appeal against order of the Collector granting lease in

favour of the petitioner has been allowed by the Commissioner and lease granted in favour of the petitioner cancelled.

2. Learned counsel for the petitioner submits that after more than two years of grant of lease, respondent No.1, without having any locus, filed an appeal against the order passed by the Collector granting lease in favour of the petitioner. He submits that the ground on which the lease has been cancelled are not made out. The petitioner has placed on record certified copy of resolution dated 16/06/2012 of Gram Panchayat which shows that the Gram Panchayat has resolved to grant lease of Budhati pond in favour of the petitioner. Therefore, the order passed by the Commissioner proceeds on factually incorrect premise.

Looking to the nature of controversy, this Court had directed respondent / gram panchayat to produce the original records for perusal of the Court.

Today, the Secretary, Gram Panchayat / respondent No.5 is present in the Court along with the original records / register of the Gram Panchayat, minutes of proceedings of Gram Panchayat including minutes of resolution dated 16/06/12. In the original records produced before this Court, it is clear that the resolution was only to grant lease in respect of Uttai pond. There is no mention whatsoever of Budhati pond.

3. In view of above, the order of the Commissioner does not suffer from any illegality or perversity warranting interference by this Court in exercise of jurisdiction under Article 226/227 of the Constitution of India. The petition is accordingly dismissed.

The CEO, Matsya Krishak Vikas Abhikaran, Durg shall hold a fact finding enquiry to find out as to how the certified copy containing incorrect statement of resolution was issued, persons responsible for issuance of such certificate and shall also take appropriate action against responsible officials.

The original records / register which was produced for perusal of the Court is returned to the counsel appearing for respondent / Gram Panchayat.

Sd/-

(Manindra Mohan Shrivastava)
Judge