

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.2207/2014

Rajkamal s/o Nanaji Moon ..vs.. Union of India through its Secretary, Ministry of
Finance Department, New Delhi and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

None for the petitioner.

Mr. A. M. Ghare, Advocate for respondent no.1.

Ms Kirti Satpute, Advocate for respondent nos. 4 and 5.

CORAM : SMT. VASANTI A. NAIK AND
V. M. DESHPANDE, JJ.

DATE : APRIL 11, 2016

By this writ petition, the petitioner seeks a direction to the respondent no.3 to pay compensation amount to the petitioner and also to appoint him on the compassionate ground.

According to the petitioner, the mother of the petitioner; Smt. Vishranti had purchased agriculture field bearing Gat No.68/1 to the extent of 1.21 HR in the year 1978. A part of Gat No.68/1 admeasuring 0.93 HR was purchased by the respondent no.4 on the same date. It is the case of the petitioner that sometimes in the year 2000, the respondent nos. 2 and 3 acquired the land of the petitioner for mining purpose and determined the compensation payable towards the acquisition of the land. It is stated that in the year 2012, 0.29 HR of the land purchased by the mother of the petitioner was again acquired by the respondent nos.2 and 3. It is the case of the petitioner that as per the policy of the respondent nos.2 and 3, one person from the family of the land holder is entitled to be nominated for the compassionate appointment. According to the petitioner, since the land belonged to the mother of the petitioner, it was necessary for the respondent nos. 2 and 4 to grant appointment

to the petitioner on compassionate ground, however, the respondent nos. 2 and 4 illegally considered the claim of the respondent no.5 for compassionate appointment. It is averred in the writ petition that the signature of the mother of the petitioner was obtained fraudulently while nominating the name of the respondent no.5 for appointment. In the aforesaid set of facts, the petitioner has sought a direction to the respondent nos.2 and 3 to pay compensation to the petitioner towards the acquisition of the land and also grant compassionate appointment on a vacant post.

As regards the prayer made by the petitioner for grant of compensation, it is informed to this Court by the learned counsel for the respondents that a dispute in regard to the payment of compensation between the petitioner on one hand and the respondent nos. 4 and 5 on the other is pending before the Special Tribunal. If that be so, the prayer made by the petitioner for a direction to the respondent nos. 2 and 3 to pay compensation to the petitioner cannot be granted as the same would be considered by the Special Tribunal in the dispute that is pending before it.

As regards the other prayer made by the petitioner i.e. the prayer for the compassionate appointment, it would not be proper to consider the said prayer in exercise of the writ jurisdiction. It is the case of the respondent nos. 2 and 3 that the petitioner had not applied for the compassionate appointment whereas the respondent no.5 had applied for the same in the year 2000 and the claim of the petitioner was, therefore, not considered. It is the case of the petitioner that the consent of the mother of the petitioner was fraudulently secured for nominating the name of the respondent no.5 for compassionate appointment whereas this fact is seriously disputed by the respondents. If that be so, it would not be appropriate to decide the said issue in the

writ jurisdiction. The petitioner is free to take up appropriate proceedings where evidence, both oral as well as documentary, could be tendered.

Hence, we dismiss the writ petition with no order as to costs. The petitioner is, however, free to take up appropriate proceedings in the matter of the claim for compassionate appointment. The issues involved in the writ petition in that regard are kept open.

JUDGE

JUDGE

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