

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

WRIT PETITION NO.4503 OF 2015

Shri Gopal S/o Shriram Singh

..vs..

Chief Managing Director, Western Coalfields Limited, having its office at Coal Estate, Civil
Lines, Nagpur-1 and ors

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

Court's or Judge's Order

Shri S.V. Sirpurkar, counsel for the petitioner.
Shri C.S. Samudra, counsel for the respondents.

**CORAM : B.P. DHARMADHIKARI &
KUM. I.K. JAIN, JJ.**

DATED : JULY 14, 2016.

Heard learned counsel for the respective
parties for some time.

The question is, whether denial of
employment to the petitioner, as a dependent or a
person affected by land acquisition, is in accordance
with mandate of Article 14 read with Article 21 of the
Constitution of India.

It appears that the respondents had a policy
in 1984 which allowed one employment for 3 Acres of
non-irrigated land and 2 Acres of irrigated land. This
policy has been replaced by a policy on rehabilitation
and resettlement in August, 2000. This policy is evolved
by the Coal India (holding company of the
respondents). The Coal India has prescribed providing

such employment in exceptional circumstances and has prescribed a norm of one employment for every 2 Acres of land. This is, however, in cases where the State Government has no norm or provision to offer employment. In case of subsidiary, the Coal India has clarified that their practice of providing one employment, against 2 Acres of irrigated land or 3 Acres of non-irrigated land, would continue.

The land of the petitioner, Survey No.69/2-A, has been acquired in the year 1997 and its area is less than 3 Acres. It is about 2.1 Acres or 0.87 H. and it is non-irrigated land.

Learned counsel Mrs. R.S. Sirpurar for the petitioner, in this connection, submits that the petitioner has made representations for providing him employment. Our attention is also invited to the information obtained under the Right to Information Act to show that where area of land acquired was less than stipulated area, the employment has been provided. It is contended that, thus, no uniform practice is being followed. Learned counsel submits that as subsidiary of Coal India, viz. Western Coalfields Limited, had no policy, till August, 2000, the later part of stipulation restricting employment by co-relating it with nature or area of acquired land is not applicable.

It is further contended that this Court has, in identical situation, granted relief to certain employees.

Learned counsel Shri C.S. Samudra is relying upon the reply-affidavit. He submits that the petitioner did not approach immediately and most probably he was minor at that time. After attaining majority also, employment was not demanded at the earliest. Thus, there is delay and that has not been explained. He further adds that the Western Coalfields Limited always had a policy and employment was offered only in case extent of dry crop land acquired was above 3 Acres or if area of irrigated land acquired was above 2 Acres. He further submits that though in one matter this Court has made certain observations about correctness or otherwise of these norms, review of that order was obtained and the said question has been left open. He, however, adds that in the present matter, there is no challenge to the policy.

Learned counsel Shri C.S. Samudra, also states that if the petitioner is not paid additional compensation, in lieu of employment, the same can be paid to him even now.

The petitioner has, in his representation, pointed out the extent of land acquired. From his representation it appears that entire land, available with

him, is lost and he has become landless. However, in absence of specific assertion in petition that the petitioner is rendered landless, there is no denial of this fact by the respondents Western Coalfields Limited.

In Writ Petition No.1873 of 2012 the Division Bench of this Court on 22.7.2013 has observed that the persons like petitioner, who were holding a smaller piece of land, could not have been discriminated. The respondents Western Coalfields Limited filed Misc. Civil Application No.122 of 2014 contending that the said observations has been made without giving it necessary opportunity. Hence, on 1.4.2014, while allowing Misc. Civil Application No.122 of 2014, this Court observed that the said question of discrimination is kept open and can be looked into afresh.

Here, the present petitioner is not offered additional compensation in lieu of employment. The information gathered by him, under the Right to Information Act, shows that about 20 employments have been allowed though their cases did not satisfy the norms. Relevant dates and details are not on record to find out a parallel therein. If the person like petitioner is rendered landless, the fact that area of land with him was less than 3 Acres (non-irrigated land) or 2 Acres

(irrigated land) by itself cannot be decisive. After petitioner lost his land, he has not been given employment or any compensation in lieu of employment till this date. Hence, contention that he has approached belatedly is without any merit.

However, as all facts necessary to decide the challenge are not on record, we are inclined to give the petitioner opportunity to make proper representation to respondent No.4 with advance copy to respondent No.3. If such representation is made, within a period of two weeks from today, the concerned authority shall scrutinize it as per law and take suitable decision upon it within next four weeks. If necessary, an opportunity of hearing shall be provided to the petitioner.

Needless to mention that all rival contentions are kept open and can be looked into, if occasion therefor arises.

With these directions, we dispose of the petition. No costs.

JUDGE

JUDGE

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