



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 26.07.2017
CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
AND

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

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W.A. (MD) Nos.1561 to 1565 of 2011
and M.P. (MD) No.1 of 2011 in W.A. (MD) No.1561 of 2011
and M.P. (MD) Nos.2, 2, 2 & 2 of 2011
in W.A. (MD) Nos.1562 to 1565 of 2011

P.Subramani ... Appellant/Petitioner in all
the appeals

Vs.

1. Government of India,
Represented by Secretary,
Ministry of Petroleum and Natural Gas,
Shasthri Bhavan,
New Delhi - 110 001.

2. Re-logistics Infrastructure Limited,
9-D/6D, Ramakrishnapuram,
Opp. to Pillaiyar Kovil,
Karur, Tamilnadu.

3. Competent Authority,
Re-logistics Infrastructure Limited,
9-D/6D, Ramakrishnapuram,
Opp. to Pillaiyar Kovil,
Karur, Tamilnadu.

... Respondents/Respondents
in W.A. (MD) No.1561 of 2011

1. Union of India,
Represented by Under Secretary,
Ministry of Petroleum and Natural Gas,
Shasthri Bhavan,
New Delhi - 110 001.

2. Re-logistics Infrastructure Limited,
9-D/6D, Ramakrishnapuram,
Opp. to Pillaiyar Kovil,
Karur, Tamilnadu.

3. Competent Authority,
Re-logistics Infrastructure Limited,
9-D/6D, Ramakrishnapuram,
Opp. to Pillaiyar Kovil,
Karur, Tamilnadu.



4.Mr.S.Rajamanickam,
Competent Authority,
Re-logistics Infrastructure Limited,
9-D/6D, Ramakrishnapuram,
Opp. to Pillaiyar Kovil,
Karur, Tamilnadu.

... Respondents/Respondents
in W.A.(MD) Nos.1562 to
1565 of 2011

COMMON PRAYER:

Writ Appeals filed under Clause 15 of Letter Patent against the order passed by this Court in W.P.(MD)Nos.8556, 8871 to 8874 of 2011 dated 20.09.2011.

Prayer in WP(MD) . 8556/ 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Pleased to issue a Writ of Certiorari Calling for the records relating to the Gazette of India dated 05.12.2010 Part II Section 3, Sub Section (ii) in respect of S.No. 698/1 comprising 0.22.0 ares issued by the Ist respondent and the consequential show casue notice dated 01.06.2011 bearing reference No. RELOG/CA/KAR/3(1)NT/4813 issued by the 3rd respondent and quash the same.

Prayer in WP(MD) . 8871/ 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a WRIT OF CERTIORARI, calling for the records relating to the Gazette of India dated 03-12-2010 Part II Section 3 Sub Section (ii) in respect of S.No. 691 comprising 0.33 ares issued by the 1st respondent and the consequential show cause notice dated 01-06-2011 bearing reference No. RELOG/CA/KAR/3(1)NT/4821 issued by the 3rd respondent and quash the same.

Prayer in WP(MD) . 8872/ 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Pleased to issue a Writ of Certiorari calling for the records relating to the Gazette of India dated 3.12.2010 Part II Section 3 Sub Section (ii) in respect of S.No. 692/1 comprising 0.34.0 ares issued by the Ist respondent and the consequential show cause notice dated 01.06.2011 bearing reference No. RELOGY/CA/KAR/3(1)NT/4820 issued by the 3rd respondent and quash the same.

Prayer in WP(MD) . 8873/ 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a WRIT OF CERTIORARI, calling for the records relating to the Gazette of India dated 03-12-2010 Part II Section 3 Sub Section (ii) in respect of S.No. 692/2 comprising 0.11.0 ares issued by the 1st respondent and the consequential show cause notice dated 01-06-



2011 bearing reference No. RELOG/CA/KAR/3(1)NT/4819 issued by the 3rd respondent and quash the same.

Prayer in WP(MD) . 8874/ 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Pleased to issue a Writ of Certiorari calling for the records relating to the Gazette of India dated 3.12.2010 Part II Section 3 Sub Section (ii) in respect of S.No. 698/3 comprising 0.13.0 ares issued by the 1st respondent and the consequential show cause notice dated 01.06.2011 bearing reference No. RELOGY/CA/KAR/3(1)NT/4811 issued by the 3rd respondent and quash the same.

For Appellant in all
the appeals

:Mr.D.Sadiq Raja

For 1st Respondent
in all the appeals

:Mr.R.Murugappan

Central Government Standing Counsel

For 2nd Respondent
in all the appeals

:Mr.R.Sekaran

for M/s.King & Patridge

For 3rd Respondent in
W.A.(MD) No.1561/2011 &
Respondents 3 & 4 in
all the appeals

:No appearance

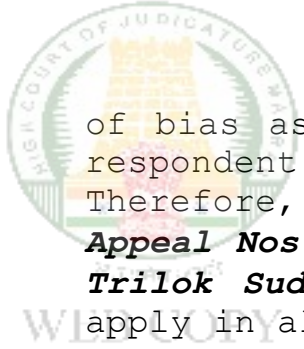
COMMON JUDGMENT

(Judgment of the Court was delivered by **M.M.SUNDRESH, J**)

These writ appeals are preferred against the common order of the learned Single Judge dated 20.09.2011, passed in W.P.(MD) Nos.8556, 8871 to 8874 of 2011.

2.The appellants herein are the land owners. They have challenged the notice issued under Section 3(1) of the Petroleum and Minerals Pipe Lines (Acquisition of Right of User in land) Act, 1962 by which objections have been called for by respondent No.3 for the proposed acquisition. Before the learned Single Judge it was contented that under Section 3(2) of the said Act the notice issued is vague. It suffers from bias and there involves non-application of mind. The learned Single Judge on the point held that in as much as a map has already been furnished the question of vague would not arise. Incidentally, it was held that the writ petitions are premature and it is open to the appellant to give their objections. Challenging the same, the present appeals have been filed.

<https://hcservices.ecourts.gov.in/hcservices/>
The learned counsel appearing for the appellant would make only one submission. It is submitted that there is likelihood



of bias as the third respondent is a paid officer of the second respondent and the second respondent is a private entity. Therefore, the ratio laid down by the Hon'ble Apex Court in **Civil Appeal Nos.8629 and 8631 of 2011 dated 13.10.2011** in the matter of **Trilok Sudhirbhai Pandya v. Union of India (UOI) and Ors.** would apply in all fours.

4.The learned Central Government Standing Counsel appearing for the first respondent would submit that the above said decision apply to the case depending on the facts and circumstances involved in the case therein and the same cannot be made applicable to the present case.

5.The Hon'ble Apex Court in **Trilok Sudhirbhai Pandya v. Union of India (UOI) and Ors.** (cited supra) was pleased to hold as follows:

"10. This Court as early as in 1957 held in Manak Lal, Advocate v. Dr. Prem Chand Singhvi and Others [AIR 1957 SC 425] that every member of a Tribunal that is called upon to try issues in judicial or quasi-judicial proceedings must be able to act judicially and it is of the essence of judicial decisions and judicial administration that judges should be able to act impartially, objectively and without any bias. In the aforesaid decision, this Court also held:

"But where pecuniary interest is not attributed but instead a bias is suggested, it often becomes necessary to consider whether there is a reasonable ground for assuming the possibility of a bias and whether it is likely to produce in the minds of the litigant or the public at large a reasonable doubt about the fairness of the administration of justice. It would always be a question of fact to be decided in each case."

In the aforesaid decision, the observations of Viscount Cave L.C. in Frome United Breweries Co. v. Bath Jusstiees (1926 Appeal Cases 586 at p.590) that the rule that every member of a Tribunal must be able to act judicially and without bias applies not only to judicial Tribunals but also in the case of authorities which have to act as Judges of the rights of others.

In aforesaid decision, this Court also held that it would always be a question of fact to be decided in each case whether there is a reasonable ground for assuming the possibility of a bias and whether it is likely to produce in the minds of the litigants or the public at large a reasonable doubt about the fairness of the administration of justice.

11. In **Ranjit Thakur v. Union of India and Others** (supra), M.N. Venkatachaliah, J. writing the judgment for the Court held in Paras 16 and 17 of the



judgment:

"16. It is the essence of a judgment that it is made after due observance of the judicial process; that the court or tribunal passing it observes, at least the minimal requirements of natural justice; is composed of impartial persons acting fairly and without bias and in good faith. A judgment which is the result of bias or want of impartiality is a nullity and the trial 'coram non-judice'.

17. As to the tests of the likelihood of bias what is relevant is the reasonableness of the apprehension in that regard in the mind of the party. The proper approach for the judge is not to look at his own mind and ask himself, however, honestly, "Am I biased?" but to look at the mind of the party before him."

12. Thus, as per the judgment of this Court the test of likelihood of bias is whether there is a reasonable apprehension in the mind of the party before the Court or the Tribunal that the Court or the Tribunal will not act with fairness and without bias on account of certain objective circumstances. There is no dispute in the present case that the salary, allowances, accommodation and transport were being borne by the respondent-company directly. Thus, the Competent Authority was virtually an employee of the respondent no.4-company and there were grounds for the appellants to entertain a reasonable apprehension in their mind that the Competent Authority will not act fairly and is likely to act with bias. In the judgment of this Court in *Ranjit Thakur v. Union of India and Others* (supra) it has been held that a judgment which is the result of bias or want of impartiality is a nullity and the trial coram non-judice. Thus, the entire proceedings for determination of compensation before Shri V.I. Gohil would be a nullity.

13. In *Hindustan Petroleum Corporation Ltd. v. Yashwant Gajanan Joshi and Others* (supra), relied on by the High Court as well as learned counsel for the respondent no.4, this Court has clearly made a distinction between a public corporation and private employer. In para 13 of the judgment, this Court has held:

".... It would be to broad a proposition to extend the theory of bias to exclude persons only because such person draws the salary from the bodies like public corporation, State Government. It would altogether be a different case if it was a case of a private employer and his employee. We cannot equate the case of a person in private employment with that of a person in public employment."

<https://hcservices.courts.gov.in/hcservices>
On the aforesaid reasons, we allow these appeals, set aside the impugned orders of the High Court as well as the proceedings for determination of compensation in



the case of the appellants only. We, however, make it clear that this judgment will not affect any of the orders passed by Shri V.I. Gohil with regard to acquisition of the right of user as the appellants challenged the appointment of Shri Gohil in the Writ Petitions before the High Court in the present case only after he started the proceedings for determination of compensation. We direct that the Union of India will appoint another unbiased person in place of Shri Gohil for determination of compensation payable to the appellants. No costs."

6. Now what is issued is a notice calling for a response from the land owners by way of representations/objections. These notices have been issued statutorily. The respondent No.3 issued these notices in pursuant to a decision taken already to acquire the lands. The question of bias would actually come while considering the objections/representations given or to be given by the interested person and that stage has not come. We do find considerable force in the submissions made by the learned counsel for the appellants insofar as likelihood of bias is concerned. Admittedly, the third respondent is the paid officer of the second respondent. There is an element of apprehension of mind involved while considering the issue. While holding that the issuance of notice under Section 3(1) of the Act has been issued as per the procedure and there is no element of bias, we have to hold that the respondent No.3 cannot act as competent authority after receiving the representations/objections as he is a paid officer of the 2nd respondent.

7. In such view of the matter, we dispose of these Writ Appeals by directing the first respondent to appoint any one other than the paid officer of the second respondent to perform the role as per Section 3(2) of the Act. We make it clear that the remuneration for the person to be appointed as competent authority shall be paid only by the respondent No.1. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(AD-II)

/True copy/

Sub Assistant Registrar

To

1. The Secretary,
Ministry of Petroleum and Natural Gas,
Government of India,
Shastri Bhavan,
New Delhi - 110 001.



+5cc to M/s.King & Patridge, Advocate,

SR.68125, 68564, 68565, 68566, 68567

+1cc to Mr.D.Sadiqraja, Advocate, SR. 68095

+1cc to Mr.R.Murugappan, Advocate, SR.68418

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W.A. (MD) Nos.1561 to 1565 of 2011
and M.P. (MD) No.1 of 2011 in W.A. (MD) No.1561 of 2011 and M.P. (MD)
Nos.2, 2, 2 & 2 of 2011 in W.A. (MD) Nos.1562 to 1565 of 2011
26.07.2017

SJ

KK/SKN RSK/SAR1/09.08.2017/ 7P- 8C/