

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition (C) No.1653 of 2018

Satwant Kumar Mahilang, S/o Shri Hukumchand Mahilang, Aged about 32 years, R/o 543 K. Shitla Para, Gangrel Ward 15, Gangrel, Tahsil Dhamtari, Civil and Revenue District Dhamtari (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, through Secretary, Water Resource Department, Ministry, Mahanadi Bhawan, Raipur (C.G.)
2. Secretary, Department of Tourism, Ministry, Mahanadi Bhawan, Raipur (C.G.)
3. Collector, Dhamtari, Civil and Revenue District Dhamtari (C.G.)
4. Sub Divisional Officer, Water Management Division No.9, Gangrel, District Dhamtari (C.G.)

---- Respondents

For Petitioner: Mr. Harshwardhan Jaiswal, Advocate.

For Respondents/State: Mr. Anand Dadariya, Deputy Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

19/07/2018

1. Ravishankar Sagar Dam also known as Gangrel Dam is situated at Dhamtari, Distt. Dhamtari. The petitioner applied on 1-2-2012 for opening of water sports facilities in Gangrel Dam along with his identity card issued by the National Institute of Water Sports, Ministry of Tourism, Government of India to which the Collector granted permission to conduct water sports facilities near Gangrel Dam in the water boundaries on 22-11-2012. Thereafter, the petitioner continued to operate water sports facilities in the said Dam, but thereafter, on 18-3-2016, Department of Tourism, Government of Chhattisgarh has decided to develop adventure water sports activities at various locations in the State of Chhattisgarh and taken a policy decision

identifying Gangrel Dam, Hasdeo Bango Dam, Chitrakot, Kodar Dam and Samoda Barrage. The Water Resources Department also granted in principle agreement for water and adventure sports at Gangrel Dam including other Dams. Vide order Annexure P-1 dated 31-5-2018, the Collector, Dhamtari, revoked the order granted in favour of the petitioner to run water sports facilities at the said Dam holding that the Government of Chhattisgarh, Department of Water Resources granted permission to the Department of Tourism, Government of Chhattisgarh for the said activity. Questioning that order, this writ petition has been preferred.

2. Mr. Harshwardhan Jaiswal, learned counsel appearing for the petitioner, submits that the order revoking the permission granted to the petitioner to run water sports activities on 21-11-2012, is contrary to law, as even no opportunity of hearing was granted to the petitioner to revoke the order granted in his favour.
3. On the other hand, Mr. Anand Dadariya, learned State counsel, would submit that in view of the policy decision taken by the Government on 18-3-2016 to develop adventure water sports activities in five Dams including Gangrel, Hasdeo Bango, Chitrakot, Kodar and Samoda, to which the Water Resources Department also granted in principle agreement on 17-6-2016, such order has been passed. Even otherwise, the earlier order passed in favour of the petitioner was without advertising and without calling any tender, therefore, in order to give effect to the policy decision of the State Government, such a decision has been taken and now, guidelines have also been framed for water sports at Gangrel Dam vide letter dated 11-5-2018 (Annexure R/11).
4. I have heard learned counsel for the parties and also considered their

rival submissions.

5. It is true that the competent authority has granted permission to the petitioner to run water sports facilities at Gangrel Dam, but it is also true that the petitioner's sole application was considered and granted without calling applications from interested and eligible persons, whereas, it ought to have considered and granted after calling applications from other eligible and interested persons in consonance with law either by entertaining individual applications or by tenders / competitive bidding. The public largesse must be granted by either of the two methods stated above, as rule of law requires publicity to be given before such allotment is made. Thereafter, the Government has taken a policy decision and various guidelines have been framed to run water sports facilities pursuant to the policy decision which is apparent from memo dated 11-5-2018. Sufficient guidelines have been issued to run water sports facilities, which include Boat ride, Single ringo ride, Double trouble – double trouble backside, Banana ride, Kayaking (single and double site), Jet ski ride (water bike) and Water ski.
6. Tourism must be promoted, but it is required to regulated. Water sports for pleasure cannot be permitted to end in disaster. The State Government has now framed rules relating to water sports activities to prevent disaster and also to protect environment and ecology of dams and surrounding areas, and pursuant to which it has been decided to be run by the Department of the State Government which cannot be held to be unreasonable merely because the petitioner was not granted opportunity before revoking his order, as the petitioner was granted the same without inviting applications from interested persons.

7. It is well settled that whenever the Government deals with the public establishment in entering into a contract or in issuance of license, the Government could not act arbitrarily on its sweet will, but must act in accordance with law and the action of the Government should not give the smack of arbitrariness. (See City Industrial Development Corporation Through its Management Director v. Platinum Entertainment and others¹.)

8. In view of the above, I do not find any merit in the petition. The petition deserves to be and is accordingly dismissed leaving the parties to bear their own costs. This will not bar the petitioner to apply for or to participate in tender process, if that recourse is taken by the Government.

Sd/-
(Sanjay K. Agrawal)
Judge

Soma

¹ (2015) 1 SCC 558