

0409mca821.19.odt

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

Misc. Civil Application No.821 of 2019 (for Review)

In

Writ Petition No.59 of 2017 (D)

Western Coalfields Ltd.,

through Chairman cum Managing Director, Nagpur, and others

Versus

Smt. Vimal w/o Pandhari Bipte and others.

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

Shri A.M. Ghare, Advocate for Applicants (Ori. Respondents).

Coram : R.K. Deshpande & Vinay Joshi, JJ.

Date : 4th September, 2019

This Misc. Civil Application seeks review of the judgment and order dated 9-10-2018 passed by this Court in Writ Petition No.59 of 2017. This Court allowed the said writ petition by setting aside the communication dated 20-1-2016 rejecting the claim of the petitioner No.2 for employment as a Project Affected Person and directed the respondent- Western Coalfields Limited to provide employment to the petitioner No.2 in terms of the Resettlement and Rehabilitation Policy promulgated in the month of August, 2000 (R.R. Policy of 2000) within a period of three months.

The claim of the petitioners for providing employment as a Project Affected Person was resisted on three grounds - (i) that the petitioners have received the amount of compensation in lieu of employment, (ii) that the holdings of the petitioner Nos.1 and 2 cannot be clubbed together to constitute three acres of land to make the petitioners eligible for providing employment, and (iii) that there are

no vacancies available for providing employment to the petitioners.

In Para 4 of the decision given by this Court, several earlier decisions rendered are referred to, and in Para 5, it is held as under :

“5. The eligibility of the petitioners to get the employment under the Policy of August, 2000 not being disputed, the petitioners cannot be treated differently particularly when similarly situated other persons were granted benefit by this Court. The reason which weighed with this Court in the aforesaid decisions seems to be that the respondent – Western Coalfields Limited succumbs to the political pressure and provides employment. In the absence of political pressure, the claims are rejected. Similar such instance is brought to our notice in respect of the owners of Gat Nos.427/2, 431/2, 151/1 and 151/2, wherein the land acquired from each individual did not exceed the area of three acres but the lands belonging to family members were clubbed together to provide employment to one of the family members. The Western Coalfields Limited has provided employment to Vitthal Kourase and Rajendra Pandurang Papde. In our view, therefore, there cannot be a different order in this writ petition.”

Shri Ghare, the learned counsel appearing for the applicants/original respondents, submits that the facts of the petitions, referred to in Para 4 of the decision of this Court, are different and the benefits granted by this Court in the said petitions could not have been made available to the petitioners in the present petition on the ground of parity. Our attention is also invited to Para 4 of the Written Submissions filed on behalf of the original respondents, in the present

petition, which is reproduced below :

“4. It is submitted that, case of the Petitioners belong to JunaKunada OC Project which falls under the R & R Policy of 2000 and that no employment has been sanctioned by clubbing lands in the said JunaKunada OC Project. It is submitted that, previously employment were sanctioned in two cases belonging to other Project which do not fall under the R & R Policy of 2000. It is submitted that, the employment was extended to some other land owners by clubbing their land by treating it as special case and that the same should not be treated as a precedent.”

It is urged that in the R.R. Policy of 2000, there was no requirement of clubbing of the lands together to provide the employment to one of the family members; and the cases cited were sanctioned, which did not fall in the R.R. Policy of 2000. It is, therefore, urged that this Court could not have accepted clubbing of the lands together, as has been done in Para 5 of the judgment under review.

In Para 4 of the Written Submissions filed on behalf of the original respondent- Western Coalfields Limited, reproduced above, it is the specific stand taken that the employment to earlier persons is extended by clubbing their lands by treating it as a special case and it was not to be treated as a precedent. We have taken note in Para 5 of the judgment under review, reproduced above, that the reason which weighed with this Court in the decisions referred to in Para 4 of the judgment under review seems to be that the original respondent- Western Coalfields Limited succumbs to the political pressure and

0409mca821.19.odt

provides employment and in the absence of the political pressure, the claims are rejected. The eligibility of the petitioners to get such employment is not disputed. The treatment of clubbing of lands together for providing employment cannot be discriminatory by adopting a 'pick and choose' method. Merely because compensation was paid, the claim for employment could not have been denied, as other similarly situated persons were granted employment.

We, therefore, find that this Misc. Civil Application for review is nothing but an abuse of process of Court. It is, therefore, dismissed with the costs of Rs.5,000/- [Rupees Five Thousand], to be paid to the petitioners.

(Vinay Joshi, J.)

(R.K. Deshpande, J.)