

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,

NAGPUR BENCH, NAGPUR

WRIT PETITION NO.1373 OF 2017

- 1.Rama s/o. Vithoba Bipte,
Aged about 68 years, Occ.
Agriculturist.
- 2.Himanshu s/o. Sanjay Bipte,
Aged about 24 years, Occ.
Student.
Both are r/o. Plot No.17, Mitra
Vihar Nagar, Kharabi Road,
Nagpur.

..... **PETITIONERS**

// VERSUS //

- 1.Western Coal Fields Limited,
through its Chairman-cum-
Managing Director, Coal Estate,
Civil Lines, Nagpur.
- 2.The Chief General Manager,
Western Coalfields Limited,
Majri at Post Kuchana,
Tq.Bhadravati, District
Chandrapur.

3.Area Planning Officer,
Western Coalfields Limited,
Majri, at Post Kuchana, Tq.
Bhadravati, District Chandrapur. RESPONDENTS

Mr.P.D.Meghe, Advocate for the petitioners.
Mr.A.M.Ghare, Advocate for Respondent Nos. 1 to 3.

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Date of reserving the Judgment : 23.4.2019.
Date of pronouncing the Judgment : 3.5.2019.
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CORAM : R.K.DESHPANDE
AND
S.M.MODAK, JJ.

JUDGMENT (Per S.M.Modak, J) :

01. Rule made returnable forthwith. Heard finally by the consent of learned Counsels for the parties.

02. The petitioner no.1 is already being paid the amount of compensation for the land acquired by respondent no.1 and now he is asking the benefit of change of policy by respondent no.1. Respondent no.1 decided to give employment to land losers by taking back the amount of compensation with 9% interest. Now, petitioner no.1 wants grandson of his real brother i.e. petitioner no.2 to get employment. So, the issue before us is, whether petitioner

no.2 satisfies the conditions laid down within the meaning of family prescribed in Resettlement and Rehabilitation Policy formulated by Coal India Limited.

03. According to the petitioners, his grandson falls within the meaning of 'family', whereas, according to the respondents, petitioner no.2 falls outside the purview of the family and as such, not entitled to the benefit of employment.

04. The land admeasuring 1.24 H.R. owned by the petitioner no.1 Rama was acquired for the project 'Juna Kunada Open Cast Mine' situated at mouza Kunada, Tq.Bhadravati, District Chandrapur in the year 2004. In the year 2009, respondents decided to give employment to land losers. The category of the land being irrigated, non-irrigated was identified. For every three acre non-irrigated land, employment to one person was decided. Therefore, Writ Petitions were filed in this Court for seeking directions to give employment. Present petitioners had filed Writ Petition No.3985/2015. This Court decided those group of petitions on 20.10.2015. The following directions were given :

“The impugned communications are quashed and set aside. The respondents-Western Coalfields Limited are directed to employ the petitioners or their nominees in terms of the Resettlement and Rehabilitation Policy of 2000, as per eligibility. The respondents should complete the exercise of taking a decision and appointing the eligible petitioners within a period of three months. ”

05. The grievance of the petitioners is that, in spite of these directions, the respondents have repudiated the claim of the petitioners vide their letter dated 08.01.2016. It reads as under :

" उपरोक्त विषयान्तर्गत आपको सूचित किया जाता है की आपके द्वारा दिए गए नौकरी प्रस्ताव में आपने हिमांशु संजय बिपटे का नामांकन किया है जो भू-धारक के सीधे सम्बन्ध (Linear dependent relation) में नहीं आते है "

06. It is this decision which is challenged before us. We have heard learned Counsel Mr.P.D.Meghe for the petitioners and learned Counsel Mr.A.M.Ghare for respondent nos. 1 to 3. After going through the record and hearing both the sides, what we find is that controversy is centered around the meaning of the word “family”. The petitioners have produced on record the R & R Policy of August,

2000. Whereas, the respondents in their submissions have reproduced the definition of 'family' as given in Clause 4(d) of the Policy. We do not find such clause in the Policy of August, 2000. It is submitted that it finds place in the Policy of 2012. The definition of 'family' is reproduced as follows :

“family” includes a person, his/her spouse, son including minor sons, dependent daughters, minor brothers unmarried sisters, father, mother residing with him or her and dependent on him/her for their livelihood and includes “nuclear family” consisting of a person, his/her spouse and minor children. Provided that, where there are no male dependents, the benefit due to a land loser may devolve on dependent daughter nominated by the land loser.”

07. We can find that there is a mention of certain relations in the definition. There is one more rider to it. Those relatives :

- a) must be residing with the land loser and,
- b) they must be depending on him for their livelihood.

The prescribed relative can succeed only when he/she satisfies the twin conditions. The policy makers have not restricted themselves in describing only the relations. Because they are fully aware that there

will be number of claims by persons by showing relations with land loser. That is why policy makers have added twin conditions. So, claimant has to fulfill those conditions. This must have been done with the object of eliminating unjustified claims. So, in order to ascertain the fulfillment of twin conditions, we have perused the pleadings. We are inclined not to accept the claim of the petitioners for the reason that pleadings do not justify residence of petitioner no.2 and his dependability on petitioner no.1. So, we do not find any fault in the decision taken by the respondents. The instances quoted by the petitioners were on the basis of facts of those cases. In the Judgment in Writ Petition No.502/2012, the nominee was the son from daughter of land loser and on the basis of facts of that case, twin conditions were held not required. In that case, there was a pleading that the claimant looks after the land loser (and not claimant depends on land loser). Even otherwise, petitioner no.1 was already been paid the compensation. The petitioners can succeed only when they fulfill the criteria laid down in R & R Policy. Unfortunately, it has not happened. Hence, no case is made out for setting aside the communication dated 08.01.2016. The petition is dismissed. No order as to costs.

JUDGE

JUDGE

[jaiswal]

