

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No. 3172 of 2015

1. Phoolchand Kaiwart S/o Late Rameshwar Prasad Kaiwart Aged About 31 Years R/o. Azad Nagar, Barampur (Durpa), Post Sarvamangla Nagar, Durpa, District Korba Chhattisgarh.

---Petitioner(s)

Versus

1. State of Chhattisgarh Through The Secretary, General Administration Department, Mahanadi Bhawan, Mantralaya, Raipur Chhattisgarh.
2. Collector Korba Chhattisgarh.
3. Sub Divisional Officer Revenue, Katghora, District Korba Chhattisgarh.
4. South Eastern Coalfield Limited, Through The Chairman-Cum- Managing Director, South Eastern Coalfield Limited, Seepat Road, Bilaspur Chhattisgarh.
5. Director (Personnel), South Eastern Coalfield Limited, Seepat Road, Bilaspur Chhattisgarh.
6. Chief General Manager, South Eastern Coalfield Limited, Kusmunda Area, District Korba Chhattisgarh.

---Respondents

For Petitioner	:	Shri Uttam Pandey, Advocate.
For State	:	Shri Rahul Jha, Govt. Advocate.
For Respondent-SECL	:	Shri Sudeep Agrawal and Shri Vivek Agrawal, Advocates.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

06.01.2021

1. Challenge in the present writ petition is to the impugned order dated 15.06.2011 (Annexure P/1) whereby the respondent-SECL has turned down the application for employment of the petitioner on the ground that the name of the petitioner does not find place in the list sponsored by the State Govt. in respect of land owners/land oustees entitled for employment.

2. The undisputed facts from the pleadings is that the property belonging to the petitioner situated in Village Barpali, District Korba was owned by the grandmother of the petitioner i.e. Smt. Mehatri Bai. The total land owned by Smt. Mehatri Bai was 0.04 Acres (4 Decimal). The entire land belonged to Smt. Mehatri Bai stood acquired and since the entire land stood acquired, there was a claim for employment made by the petitioner, the grandson of Mehatri Bai. However, the claim of the petitioner seems to have been rejected by the respondent-SECL vide the impugned order only on the ground that the name of the petitioner does not find place in the list of land owners/land oustees sponsored for employment by the State Govt. to the SECL. This being the sole ground of rejecting the application, this court is inclined to test only this ground.
3. From the documents which are enclosed along with the writ petition and also from the reply submitted by the respondents, there does not seem to be any strong dispute raised by the respondents so far as the petitioner not being successor to Smt. Mehatri Bai. There is also no dispute to the fact that the land situated at Village Barpali was exclusively owned by Smt. Mehatri Bai. There also does not seem to be any objection so far as the entire land owned by Smt. Mehatri Bai having been acquired by the State Govt. for mining purpose given to the SECL.
4. Only because the State Govt. inadvertently having not included the name of the petitioner in the list of land owners/land oustees who are entitled for employment alone would not be a ground for denying the claim of the petitioner if he meets all other eligibility criteria for employment in lieu of land being acquired, under the prevailing policy. Moreover, from the pleadings with the writ petition itself it is found that the management of SECL itself in their document dated 14/16.11.2010 (Annexure P/7) have

accepted the fact that Smt. Mehattrin Bai was the exclusive owner of the property measuring 0.04 Acre situated at Village Barpali and the entire land having been acquired.

5. Thus, from the documents available with the management of SECL itself it is established that the petitioner is a successor to Smt. Mehattrin Bai, the land oustee and his case ought to have been considered on its own merits irrespective whether the name of the petitioner has been sent by the State Govt. or not.
6. As regards others grounds that the respondents have raised in their reply, since those grounds do not find part of the impugned order for rejection of the claim of the petitioner, this court at this juncture would not venture to decide whether those grounds are proper, legal and justified or not.
7. The impugned order has to be tested only on the ground on which the same has been passed and which in the instant case is only to the extent of name of the petitioner not finding place in the list sent by the State Govt., which from the documents enclosed with the writ petition itself is found to be an erroneous conclusion arrived at. From the pleadings it is established that the petitioner is successor to Smt. Mehattrin Bai, the land oustee/original land owner of the property situated at village Barpali. In addition, there is also a Succession Certificate issued by the Additional Tehsildar which was sent to the SDM who in turn has forwarded the same to the management of SECL to further strengthen the claim of the petitioner being the legal heir of the original land owner Smt. Mehattrin Bai.
8. The impugned order dated 15.06.2011 (Annexure P/1) therefore in the given facts and circumstances of the case would not be sustainable and the same accordingly stands set aside/quashed. The respondents are directed to consider the case of the petitioner for employment subject to

his fulfilling all other required eligibility criteria under the policy under which his claim was scrutinized.

9. Since the matter pertains to acquisition that was done in the year, 1988, it is expected that the respondents shall consider the claim of the petitioner in accordance with rules and regulations governing the field at the earliest preferably within a period of four months from the date of receipt of copy of this order.
10. The writ petition accordingly stands allowed.

Sd/-
(P. Sam Koshy)
Judge

inder