NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WA No. 267 of 2021

[Arising out of order dated 26.8.2021 passed by the learned Single Judge in WPS No.4419 of 2021]

- Saroj Kumar Nayak S/o Shri Balmukund Nayak Aged About 28 Years R/o Village Aadmuda, tahsil Pussore, District Raigarh Chhattisgarh

---- Appellant

Versus

1. State Of Chhattisgarh Through Secretary, Department Of Revenue, Mahanadi Bhawan, Mantralaya, Atal Nagar, New Raipur, District Raipur (Chhattisgarh)

2. Collector District Raigarh Chhattisgarh

3. Managing Director National Thermal Corporation Limited (N. T. P. C.) Project Lara, District Raigarh Chhattisgarh

4. Praveen Sidar S/o Faguram Sidar R/o Village Chhapora, Post Chhapora, Tahsil Pussore, District Raigarh Chhattisgarh

---- Respondents

For Appellant	:-	Mr. Ajay Shrivastava, Advocate
For Respondent-State	:-	Mr. Gagan Tiwari, Dy.G.A.

Hon'ble Shri Prashant Kumar Mishra, Ag.CJ
Hon'ble Smt Rajani Dubey, J
Judgment On Board

By

Prashant Kumar Mishra, Ag.CJ

13/09/2021

1. Challenge in this intra Court appeal is to the order passed by the learned Single Judge dismissing the appellant's (henceforth 'the petitioner') writ petition challenging the order dated 09.5.2021 (Annexure P1 to writ petition) and the result of skill test (Annexure P2 to writ petition) whereby the respondents have declared the result of the written test conducted for the post of Diploma Engineer trainee (Electrical) for the persons whose land was acquired for the NTPC project.

2. The main contention raised by learned counsel for the petitioner is that on an earlier occasion vide Annexure P/9, NTPC had found that respondent No.4 is not entitled for the benefit of employment in lieu of land acquisition, therefore, he could not have been considered eligible under the orders challenged before the learned Single Judge.

3. The indisputable fact is that prior to the year 2011, the subject property was belonging to Shri Faguram Sidar, father of respondent No.4. The property was partitioned in the year 2011, whereafter it fell in the share of respondent No.4. The land acquisition was made in the year 2012, therefore, as per the Rehabilitation & Resettlement Policy (R & R Policy) NTPC could have considered only those cases for employment in lieu of land where the property stood in the name of a person prior to 3 years from the date of acquisition. Since the respondent No.4 had acquired title

by receiving the property in partition in the year 2011, his name came to be entered in the revenue record for the first time in 2011 and, as such, the same being within 3 years and not prior to 3 years from the date of acquisition, he was found not entitled for consideration.

4. Subsequently, the amendment was incorporated in the R & R Policy by the State Government order dated 18.11.2020, as one time measure for the Project Affected Persons (PAPs) of NTPC, Lara. Under this amended R & R Policy definition of affected family has been made wider to include sons, daughters (unmarried and married) and some other relations also. By applying the amended definition of the affected family, the NTPC has now found respondent No.4 entitled for acquisition and the respondent No.4 has now been selected.

5. It is argued that even under the amended policy the respondent No.4 would not be eligible because at the time of acquisition, the respondent No.4 was the owner of the property and not his father, therefore, he cannot claim benefit as son of the PAP.

6. Having heard learned counsel for the appellant, in our considered opinion, the claim of respondent No.4 cannot be defeated purely on hyper-technical ground. Had the land not been partitioned, the acquisition would have been in the name of father of respondent No.4 and in such case he

would have been entitled as son of the holder whose land has been acquired. A beneficial policy cannot be interpreted in such a manner to defeat the rightful claim of a person.

7. Admittedly, land belonging to the family of respondent No.4 has been acquired by NTPC, Lara project, therefore, if he happens to be the son of original holder whose name was entered in the revenue records for a period prior to 3 years of acquisition, the respondent No.4 would be covered within the amended definition of the affected family as prior to 3 years from the date of acquisition the land was recorded in the name of his father.

8. The view taken by the learned Single Judge in the impugned order does not suffer from any inherent infirmity requiring interference of this Court in exercise of intra Court appellate jurisdiction.

9. As a sequel, the writ appeal being bereft of merit, is liable to be and is hereby dismissed.

SD/-
(**Prashant Kumar Mishra**)
Acting Chief Justice

SD/-
(**Rajani Dubey**)
Judge

Gowri