

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 3444 of 2017

Kaikai Sagaria and others

.....

Petitioners
Mr. S.K. Joshi, Adv.

Vs.

State of Odisha and others

.....

Opposite Parties
Mr. P.K. Muduli, AGA

CORAM:

DR. JUSTICE B.R. SARANGI
MR. JUSTICE B.P. SATAPATHY

ORDER

12.12.2022

Order No.
07.

This matter is taken up through hybrid mode.

2. Heard Mr. S.K. Joshi, learned counsel for the petitioners and Mr. P.K. Muduli, learned Addl. Government Advocate appearing for the State-opposite parties.

3. The petitioners have filed this writ petition seeking direction to the opposite party no.4-Special L.A.O.-cum-R.R. Officer, Lower Indra Irrigation Project, Khariar to extend the benefit of Odisha Rehabilitation and Resettlement Policy, 2006 in their favour by treating them as separate family, within a stipulated time.

4. Mr. S.K. Joshi, learned counsel for the petitioners contended that the land of the petitioners was acquired for Lower Indra Irrigation Project and as a displaced person, their father had got the benefit. But it is contended that since the petitioners have been treated as separate family, they are also entitled to get the benefit as land oustee.

5. Mr. P.K. Muduli, learned Addl. Government Advocate appearing for the State-opposite parties contended that the petitioners cannot be construed as separate family, as because by the time the notification was issued, they were minor. As such, any amendment so made enabling the person attaining the age of

18 years to apply that was given effect to from the date of notification. Therefore, the petitioners cannot be take advantage of the same, as the amendment will apply prospectively but not retrospectively.

6. Having heard learned counsel for the parties and after going through the records, this Court finds that for sanction of rehabilitation assistance to the displaced family of Brushav Sagaria, survey was conducted on 02.07.2002 and at that time the age of petitioner no.1-Kaikai Sagaria was 15 years, petitioner no.2-Daleswari Sagaria was 12 years, petitioner no.3-Bhumisuta Sagaria was 9 years and petitioner no.4-Babita Sagaria was 6 years. Since they were under-aged at that time, their cases were not considered as per Para 2(g)(iii) of Odisha Resettlement & Rehabilitation Policy, 1994. The Orissa Resettlement & Rehabilitation Policy, 2006 came into force w.e.f. 15.05.2006. The cut-off date as per para 2(c) of the said policy was fixed to be 01.01.2009. On 01.01.2009, petitioner no.1 was 22 years, petitioner no.2 was 19 years, petitioner no.3 was 16 years and petitioner no.4 was 13 years. As such, all the petitioners being daughters, were also not eligible for separate families due to under age, as per para-2(f)(ii) of the Policy, 2006. The Government in Revenue & Disaster Management Department, vide resolution dated 05.08.2013, amended certain paragraphs of Orissa Resettlement & Rehabilitation Policy, 2006, which is prospective one. As such, in para-2(f)(ii) the words “unmarried daughter/sister more than 30 years of age”, have been substituted by the words “major unmarried daughter/major unmarried grand daughter/major unmarried sister”. Accordingly, para-2(f)(ii) shall take effect from the date of issue of Government Resolution from 05.08.2013. Therefore, on the basis of amendment policy, the petitioner no.1

was 22 years, petitioner no.2 was 19 years, petitioner no.3 was 16 years and petitioner no.4 was 13 years. Although, petitioner nos.1 and 2 found major on the cut-off date, i.e., 01.01.2009, but they were not eligible for R&R benefits, as they were married by that time, which is revealed from the report of concerned Revenue Inspector.

6. In the above view of the matter, the relief sought by the petitioners is not admissible. Accordingly, the writ petition merits no consideration and the same is hereby dismissed.

Issue urgent certified copy as per rules.

(DR. B.R. SARANGI)
JUDGE

(B.P. SATAPATHY)
JUDGE



Ashok