

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

WRIT PETITION NO.1922 OF 2019

1. Nago s/o Bapurao Samarth,
Aged about : 40 years, Occu. Agriculturist,
R/o Suraksha Nagar, Bhadrawati,
Dist. Chandrapur
2. Pandurang s/o Bapurao Samarth,
Aged about : 51 years, Occu. Agriculturist,
R/o Talodhi (Bhakhardi, Tah. Korapana,
Distt. Chandrapur
3. Gajanan s/o Bapurao Samarth,
Aged about : 47 years, Occu. Agriculturist,
R/o Chikhalgaon, Tah. Wani,
Dist. Yavatmal
4. Kamal W/o Raju Khemekar,
Aged about : 38 years, Occu. Agriculturist,
R/o Ukni, Tah. Wani
Dist. Yavatmal
5. Baburao s/o Vithu Samarth,
Aged about : 54 years, Occu. Agriculturist,
6. Subhash s/o Baburao Samarth,
Aged about : 31 years, Occu. Agriculturist,

Petitioner No.5 & 6 both
R/o Navin Kunada, Post Kondha,
Tah. Bhadrawati, Dist. Chandrapur

... Petitioners

-vs-

1. Western Coalfields Ltd.
Through its Chairman cum
Managing Director, Coal Estate,
Civil Lines, Nagpur
2. Chief General Manager, Western
Coalfield Ltd. Majri Area,
At Post Kuchana, Tah. Bhadrawati,
Dist. Chandrapur
3. Area Planning Officer, Western Coalfields Ltd.
Majri Area,
At Post Kuchana, Tah. Bhadrawati,
Dist. Chandrapur

... Respondents.

Shri P. D. Meghe, Advocate for petitioners.
Ms Sushma, Advocate for respondents.

CORAM : A. S. CHANDURKAR AND SMT M. S. JAWALKAR JJ.
DATE : March 08, 2022

Oral Judgment :

Rule. Rule made returnable forthwith and heard the learned counsel for the parties.

The family of the petitioners claim to be the owners of agricultural land at village Kunada, Tah. Bhadrawati, District Chandrapur that came to be acquired for the “Navin Kunada Project” under provisions of the Coal Bearing (Acquisition and Development) Act, 1957. In terms of the Resettlement and Rehabilitation policy of the Western Coalfields Ltd., the petitioners claim that they are entitled to seek employment pursuant to the acquisition of the lands owned by them. It is their case that at the relevant time when the land was acquired, the same was standing in the name of Sadashiv Gadi Samarth who was the brother of the grandfather of the petitioner Nos.1 to 5. Sadashiv was unmarried and he expired on 08/06/1998 intestate. After acquisition of the aforesaid land when the petitioners sought to receive the amount of compensation they were directed to obtain legal heir certificate to enable them to withdraw the amount of compensation that was deposited with the Special Tribunal. The petitioners accordingly applied for grant of legal heir certificate and the learned Civil Judge (Junior Division), Bhadrawati issued such certificate on 16/01/2017. Since the petitioners were seeking grant of employment, the petitioner Nos.1 to 5 nominated the petitioner No.6 for grant of such employment by conveying their no objection in that regard to the Western Coal Fields Ltd. On that basis on 11/05/2017 the

petitioner No.5 moved an application with the respondents seeking grant of employment to the petitioner No.6. While considering that application the respondent No.2 on 21/05/2018 issued a communication to the petitioners to explain the reasons for the delay in seeking employment. The petitioners submitted their explanation on 25/05/2018 stating therein that they were required to obtain the legal heirs' certificate following the death of Sadashiv. Thereafter on 10/07/2018 the petitioner No.5 was informed that since the petitioner No.6 was not a linear dependent it would not be possible to grant him such employment. This was followed by another communication dated 09/11/2018 reiterating the same facts. In view of issuance of these communications and as the petitioners were informed that employment could not be offered to the petitioner No.6, they have challenged these communications by filing the present writ petition and have sought a direction to be issued to the respondents to provide employment to the petitioner No.6.

2. Shri P. D. Meghe, learned counsel for the petitioners submitted that Gat No.169/1 belonging to Sadashiv had been acquired. As he was unmarried he had no family of his own. The petitioner No.6 being a blood relative residing with Sadashiv was entitled to seek employment. The respondents were not justified in denying such employment to the petitioner No.6 on the ground that he was not a linear dependent. It was submitted that with the issuance of legal heir certificate on 16/01/2017 it was clear that the petitioners are recognised as legal heirs of deceased Sadashiv and under the Policy of 2000 it was incumbent upon the respondents to provide employment to the petitioner No.6. He referred to the

employment granted to similarly situated land owners from the same village by referring to the communication dated 04/01/2018. Employment was being offered by the respondents even in the year 2018 to those land owners whose lands were acquired under the same project as the petitioners. Inviting attention to the judgment of the Division Bench of this Court in Writ Petition No.5802/2012 (*Pradip s/o Vithoba Bhoyar vs. Union of India and ors.*) it was submitted that the expression “family” was not an exhaustive definition but it was an inclusive one. This Court had held that the policy to facilitate resettlement and rehabilitation was a beneficial piece of subordinate legislation and therefore it had to be applied in that manner. It was thus submitted that the petitioners were entitled for the relief as prayed for.

3. Ms Sushma, learned counsel for the respondents opposed the aforesaid submissions by referring to the reply placed on record. Inviting attention to the uniform guidelines for employment to land losers, it was submitted that thereunder employment could be provided to direct linear dependent of the land owner. The petitioner No.6 could not be said to be a linear dependent since the land owner was the brother of the grandfather of petitioner No.5. This fact was communicated to the petitioners on 10/07/2018 and the same was in accordance with the uniform guidelines. It was then submitted that there was considerable delay on the part of the petitioners in seeking employment. The land in question had been acquired in the year 1998 while the request for grant of employment was made in the year 2017. The communication dated 21/05/2018 specifically referred to this aspect. Inviting attention to the order of the Division Bench in Writ

Petition No.1957/2017 (*Savita Tejram Ghotekar vs. Western Coalfields Ltd. Ballarpur, Dist. Chandrapur and ors.*) dated 14/01/2016 it was submitted that as the claim of the petitioners was stale, the same was not liable to be granted. The learned counsel further submitted that the Navin Kunada Opencast Mine had been closed down and it would not be possible to provide employment at this stage. On these counts it was submitted that the prayer made by the petitioners for grant of employment to the petitioner No.6 was not liable to be granted.

4. We have heard the learned counsel for the parties at length and we have perused the documents placed on record. Though the impugned communications dated 10/07/2018 and 09/11/2018 indicate that employment can only be provided to linear dependent of the original land owner, the respondents have also raised the aspect of delay on the part of the petitioners in making the request for grant of employment. The aspect of delay however need not detain us for the reason that on 21/05/2018 the respondents had issued a letter calling upon the petitioners to explain the cause for the delay in seeking appointment in lieu of acquisition of the land in question. In response thereto the petitioners on 24/05/2018 furnished their explanation and stated that some time was spent in obtaining legal heirs' certificate by the petitioners. Other reasons were also assigned by them in that communication. After considering the petitioners' response, the respondents considered the request of the petitioners and thereafter rejected the request for grant of appointment on the ground that such employment could be offered only to a linear dependent. Thus, the impugned communications did not assign the reason of delay for rejecting the claim of the petitioners in

seeking employment. The respondents having sought explanation from the petitioners for the cause of delay and such explanation having been duly furnished by the petitioners, it is clear that their claim for seeking employment has been turned down not on the ground of delay but that employment can be granted only to a linear dependent. It is therefore not permissible for the respondents to now urge that the claim for employment was made belatedly by the petitioners. For that reason the decision in *Savita Tejram Ghotekar* (supra) would not assist the case of the respondents.

5. Coming to the reason assigned by the respondents for not granting employment to the petitioners, it is seen that as per the uniform guidelines being applied by the respondents, it has been stated that for the purposes of employment the land owner whose title appears in the record of right would be considered and would include the direct linear dependent. The said expression appears to be inclusive in nature. It may be noted that in *Pradip Vithoba Bhoyar* (supra) employment had been denied to the petitioner therein on the ground that the petitioner was not a linear dependent of the original land owner. The resettlement and rehabilitation policy of the respondents was considered along with the expression “family”. This Court observed that the policy was a beneficial piece of subordinate legislation on account of acquisition of the petitioner’s land. It was further observed that the definition of the expression “family” was not an exhaustive one but inclusive in nature. Relief was accordingly granted by directing the respondents to grant employment to the grandson of the original land owner. Said grandson was the son of the land owner’s elder daughter. It may be noted

that this decision of the Division Bench was upheld by the Honourable Supreme Court and the Special Leave Petition came to be dismissed.

6. It is seen that the original land owner Sadashiv was unmarried. The concept of linear dependent cannot be strictly applied to the case of the petitioners as it would result in depriving the family of the benefit of the Resettlement and Rehabilitation policy. In the facts of the case in hand, a restrictive meaning cannot be given to the expression “linear dependent” as it would result in frustrating the benevolent object behind the policy in question. The petitioners being common dependents have sought grant of employment to one amongst them. All petitioners, except petitioner No.6 who is seeking employment, have filed an affidavit consenting to grant of employment to the petitioner No.6. It is also to be noted that by filing an additional affidavit the petitioners have indicated grant of employment to Shri Sunil Bipte and others in 2020 whose lands were acquired under the same notification as the petitioners.

We therefore find that the respondents were not justified in denying the grant of employment to the petitioner No.6. Hence for aforesaid reasons the impugned communications dated 10/07/2018 and 09/11/2018 insofar as the same deny employment to the petitioner No.6 is set aside. The respondents are directed to provide employment to the petitioner No.6 in accordance with the relevant Rules and Regulations within a period of six weeks from today.

Rule is made absolute in aforesaid terms with no order as to costs.