

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

WRIT PETITION NO.3547 OF 2020

- PETITIONERS :-**
1. Mahadeo Sadashiv Nannaware, aged about 73 years, Occup.Nil.
 2. Smt.Meera Balaji Nannaware, Aged about 36 years, Occup. Housewife, Both r/o Marda, Tah. Warora, Dist.Chandrapur.

...VERSUS...

- RESPONDENTS :-**
1. Western Coalfields Ltd., Coal Estate, Civil Lines, Nagpur, through it's Chairman cum Managing Director.
 2. The Area General Manager, Majri Area (Kuchna), Tah. Bhadrawati, Dist. Chandrapur.

Mr.PD.Meghe, counsel for the petitioners.
Ms.Mugdha Chandurkar, counsel for respondents.

**CORAM : SUNIL B.SHUKRE &
G.A.SANAP, JJ.
DATE : 22.09.2022.**

ORAL JUDGMENT (Per :Sunil B.Shukre, J.)

1. Heard.
2. Rule. Rule made returnable forthwith. Heard finally by consent of the learned counsel appearing for the parties.

3. The learned counsel for the respondents has tendered to this Court the additional affidavit of the respondents. It is taken on record and marked as 'A' for identification. The additional affidavit takes a stand that on the suggestion given by this Court, the issue of providing employment to widowed daughter-in-law Smt.Meera Balaji Nannaware, i.e. petitioner No.2 was placed before the Board of Directors in it's meeting held on 19.09.2022, and after due deliberation, the Board of Directors opined that taking into consideration, the future repercussions of any favourable decision to the widowed daughter-in-law on Western Coal Limited(WCL) and Coal India Limited(CIL) as a whole, the Board of Directors, would go by the definition of family in the Rehabilitation and Resettlement Policy of Coal India Limited, 2012 (for short R and R Policy, 2012), which, strictly speaking, does not include any widowed daughter-in-law within the term "family". So it is clear that Board of Directors of WCL now, will not, on its own, provide any employment to any family member of the petitioner No.1, who is the land loser.

4. We must point it out here that the respondents, do not dispute the fact that the petitioner No.1 is a land loser. They also did not dispute the fact that the case of the petitioner No.1 is governed by the R and R Policy, 2012. So, the respondents would be under a duty to comply with this Policy and provide employment to every land loser including the petitioner No.1 as per the formula prescribed in clause 8.1 (B) of R and R Policy, 2012. But, the respondents say that they cannot provide employment to petitioner No.2, not because she is not a family member, but because she is not covered by definition of “family” being a daughter-in-law. In such a case, respondents would be required to clarify as to whom they would offer employment, if it is not petitioner No.2, or in what manner they would discharge their obligation to provide employment under said R and R Policy, 2012. But they are silent on this aspect. So, the issue would have to be resolved by us taking its broader and holistic view.

5. Petitioner No.1, the land loser is a 73 years old person. Such a person, admittedly, cannot be provided any employment. The respondents, on the other hand, are under a duty to provide

employment to a land loser. If petitioner No.1 cannot be provided with any employment, the employment would have to be provided to any member of the family of petitioner No.1 or to any such person, who is considered by petitioner No.1 as his family member. The definition of family, on which heavy reliance has been placed by the respondents, no doubt does not indicate a widowed daughter-in-law to be a member of "family". For the sake of convenience, this definition of family is reproduced as under:

“**family**” includes a person, his/her spouse, son including minor sons, dependant 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 dependants, the benefit due to a land loser may devolve on dependent daughter nominated by the land loser”.

6. It would be clear from the above referred definition that strictly construed, petitioner No.2 could not be taken to be a person falling within the sweep of expression “family” as defined above. But, petitioner No.2 is also a person, who is considered to

be an intrinsic member of family of the petitioner No.1 and also dependent on petitioner No.1 by none other than the petitioner No.1 himself, the land loser. The petitioner No.1 also considers her to be suitable to seek employment and discharge her duty and functions, which would be part of her job. Petitioner No.1 does not have any other person in his family, who could be considered to be a suitable person for fulfilling all the requirements of any employment that would be provided to that member by the respondents. Therefore, a person like petitioner No.2, who has been a victim of cruel circumstances and who is an intrinsic part of family of petitioner No.1 and who is dependent on petitioner No.1 has to be considered as a member of the family of land loser and who is dependent for survival on a land loser like the petitioner No.1.

7. Besides, definition of “family” includes such persons as dependent daughters, un-married sisters, father, mother residing with the land loser and dependent for livelihood upon the land loser and also includes a nuclear family consisting of a person, his or her spouse and married children. If such categories

as dependent daughters, un-married sisters, dependent father or mother could be considered to be falling within the expression 'family', there is no reason why the widowed daughter-in-law, who is dependent on her father-in-law should not be equated with the dependant daughter or un-married sister. Excluding such a person would agitate against the rule of equality and would be opposed to the public policy. The public policy is to provide succor to the needy and ensure general welfare and well being of the citizens. If the definition of family as contained in the R and R Policy 2012, family is not construed in wider terms, this Court would be committing the mistake of doing a technical justice and not a substantive justice, as has been done by the Board of Directors of the respondents.

8. We are therefore, of the view that by giving a broader expression to the definition of "family" as contained in R and R Policy, 2012, the case of the petitioners deserves to be allowed and we declare that the petitioner No.2 is a member of the family of the petitioner No.1 as defined under R and R Policy, 2012.

9. Accordingly, the petition is allowed in terms of prayer clauses (i) and (ii).

10. We direct the respondents, to provide suitable employment to the petitioner No.2 in terms of clause 8.1 (B) of R and R Policy, 2012, within a period of four weeks from the date of the order.

Rule is made absolute in the above terms. No orders as to costs.

(G.A .SANAP, J)

(SUNIL B. SHUKRE, J)