

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

WRIT PETITION NO. 735 OF 2022

- (1) Sunanda Wd/o Shamrao Badki,
aged about 52 years, Occ. Nil,
- (2) Gajanan S/o Shamrao Badki,
aged about 20 years, Occ. Nil,
Both R/o. Babupeth Ward,
Chandrapur, Tahsil and Distt.
Chandrapur.

.....**PETITIONERS**

...V E R S U S...

- (1) Chief Managing Director,
Western Coal Fields Ltd. Seminary
Hills, Civil Lines, Nagpur,
District Nagpur-440001.
- (2) Area Project Manager,
Western Coal Fields Ltd.
Majari Area, Kuchna Tahsil
Bhadrawati, District Chandrapur.
- (3) Area General Manager,
Western Coal Fields Ltd.
Majari Area, Kuchna Tahsil
Bhadrawati, District Chandrapur.

.....**RESPONDENTS**

Ms. Kirti Satpute, Advocate for the petitioners
Mr. C. S. Samudra, Advocate for the respondents

CORAM : ROHIT B. DEO AND
MRS. VRUSHALI V. JOSHI, JJ.

DATE : 12-04-2023

ORAL JUDGMENT (PER : Rohit B. Deo, J.)

Rule. Rule made returnable forthwith. Heard finally with consent of the learned counsel appearing for the parties.

2. Petitioners are invoking writ jurisdiction with the grievance that the respondents have unjustifiably denied petitioner 2 employment in lieu of acquisition of ancestral land of the father of petitioner 2, deceased Shamrao.

3. It is not in dispute that Land Survey 18/3 admeasuring 2.65 HR which was owned by Mr. Shamrao was acquired under notification dated 19-1-1995 issued under Section 9(i) of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (Act). The statutory scheme is that with the issuance of notification under Section 9(i) of the Act, the vesting is complete. Shamrao was paid compensation for the land acquired. It is after more than 15 years of the acquisition and vesting, that an application dated 25-8-2009 is preferred seeking employment for Nitin, the nephew of Shamrao. This application is rejected by the respondents on 12-4-2010 on the

premise that Nitin was not eligible under the extant policy. However, the request seeking appointment for Nitin was reiterated vide application dated 4-10-2010, with similar result.

4. In the meanwhile, petitioner 2 Gajanan, who is born on 15-5-2001, attained majority in the year 2019. His father Shamrao expired in the meanwhile on 9-11-2017. It is after attaining majority that Gajanan applied for employment, which application is not considered by the respondents.

5. While learned counsel for the petitioners Ms. Satpute would urge that in as much as there is no formal decision taken, the respondents be directed to consider the representation/application/request, we are not inclined to agree. Decision on representation is not an empty or ritualistic formality. The Respondents have taken a stand on oath. We treat the stand on oath in the affidavit in response as a decision on the application preferred by Gajanan.

6. We have no doubt in our mind that the relevant date for considering the application seeking employment under the

uniform guidelines is the date of the acquisition and particularly the date on which the notification under Section 9(i) of the Act is issued which results in the vesting of the land. It is not in dispute, that Gajanan was born five years or thereabout after the entire acquisition and vesting stood concluded.

7. We do not find any error in the view taken by the respondents.

8. The petition stands dismissed with no order as to costs.

(Mrs. Vrushali V. Joshi, J.)

(Rohit B. Deo, J.)

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