

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR
WRIT PETITION NO. 4253 OF 2022

(Shri Nilkanth s/o Namdeo Mandavkar Vs. Union of India & Ors.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.

Court's or Judge's order

Shri R.M. Sharma, Advocate for the petitioner.
Shri C.S. Samudra, Advocate for respondent No.2.

CORAM : A. S. CHANDURKAR AND MRS. VRUSHALI V. JOSHI, JJ.
DATE : JANUARY 18, 2023

Heard.

2. The challenge raised in this Writ Petition is to the communication dated 16/3/2022 issued by respondent No.3 – Area General Manager, Western Coalfields Limited informing the petitioner that in lieu of acquisition of Gat No. 7 admeasuring 2 hectares 33 ares and Gat No. 20 admeasuring 1 hectare 21 ares situated at Mouza – Kanwha, Taluka – Umred, District – Nagpur, one employment would be provided and that separate employment to each co-owner of the said lands cannot be provided.

3. According to the petitioner, his father Namdeo was the owner of the aforesaid lands. The petitioner's father expired on 29/9/1998 leaving behind four sons and one daughter. The aforesaid lands were the subject matter of issuance of Notification under Section 4(1) of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (for short "the Act of 1957") on 26/3/2005. Notification under Section 9(1) of the Act of 1957 was published on 10/11/2007. Thereafter, on 22/1/2011, Notification under Section 11(1) of the Act of 1957 was published. According to the petitioner, the names of all legal heirs of Namdeo were entered in the revenue records. On 10/4/2012, a relinquishment deed came to be executed by the mother and sisters of the petitioner. Thereafter, on the same day, in a partition between the brothers, the aforesaid lands came to be divided. It is in this context that the petitioner has sought to raise a claim for grant of employment to each owner of the aforesaid lands pursuant to the said partition deed. It is urged that for every two acres of land, one employment is provided as per the Rehabilitation and Resettlement

Policy of Coal India Limited, 2012 (for short “the Policy of 2012”). The petitioner raised a claim in that regard and this Court in *Nilkanth s/o Namdeo Mandavkar Vs. Union of India, Ministry of Coal, New Delhi, thr. Secretary and ors. [Writ Petition No. 2441/2021 decided on 23/2/2022]* directed the Western Coalfields Limited to take a decision on the request made by the petitioner. Pursuant to the said direction, the aforesaid communication dated 16/3/2022 has been issued which is impugned in this Writ Petition.

4. Shri R.M. Sharma, learned Counsel for the petitioner referred to the definition of the expression “family” in the Policy of 2012 and urged that the said definition refers only to minor brothers and not major brothers. Since the land exceeding two acres was standing in the names of all the four brothers, each brother was entitled to one employment. A family unit would thus have to be considered in the context of the individual owner of the acquired land. The object behind the Policy of 2012 being to rehabilitate the persons whose lands were acquired, the same ought to be interpreted in a manner that would achieve that purpose. He also referred to the eligibility criteria in the said Policy to submit that the WCL was not justified in refusing to grant employment to each family unit of brothers. It was thus submitted that the impugned communication be set aside and each family unit be provided one employment.

5. Shri C.S. Samudra, learned Counsel for respondent No.2 supported the impugned communication. According to him, the Notification under Section 9(1) of the Act of 1957 having been issued on 10/11/2007, the WCL was required to consider the ownership of the acquired lands as on that date. The father of the petitioner had expired and the aforesaid lands were shown in the joint names of all his legal heirs. In view of 7/12 extract indicating this position, the family was entitled only to one employment. It was submitted that the relinquishment deed was unregistered and was executed after the lands vested in the WCL. Similarly, the partition deed was executed on 10/4/2012 which was after 10/11/2007 being the date of the relevant Notification. In this context, the entire family was entitled for one employment and each brother could not claim separate employment on the basis of the subsequent partition. The Policy of 2012 did not contemplate multiple employments against one holding even if the area acquired

exceeded two acres. He referred to the decisions of this Court in *Bhaurao Vitthal Jambhule & another Vs. Union of India & others* [Writ Petition No. 2639/2007 decided on 17/4/2009] and *Dinkar Ragho Pidurkar and others Vs. Western Coalfields Ltd. and others* [Writ Petition No. 1672/2014 decided on 30/1/2015] to submit that the impugned communication had been issued in the light of the said decisions. Hence, no interference was called for.

6. We have heard the learned Counsel for the parties and we have perused the documents on record. Undisputedly, when the Notification under Section 9(1) of the Act of 1957 was issued, both the acquired lands were standing in the joint names of the legal heirs of Namdeo. It is on that date that the lands vested with the WCL and therefore it was not duty bound to consider subsequent development in the nature of relinquishment and partition that took place in the year 2012. It is on the aforesaid basis that the legal heirs of Namdeo have been treated to be one unit – family for the purposes of rehabilitation. For this reason, only one employment has been provided. This Court in *Bhaurao Vitthal Jambhule and another (supra)* has held that change in ownership of the land after vesting in view of Notification under Section 9(1) of the Act of 1957 is of no consequence. Same is liable to be ignored. Similarly, in *Dinkar Ragho Pidurkar and others (supra)* the aspect of joint ownership on the date of Notification has been considered and it is held that only one employment is liable to be provided under the Policy of 2012.

We find that there is no reason to interfere with the impugned communication in the light of the aforesaid. One employment has been provided to the legal heirs of Namdeo and it is for them to resolve the question as to which member of the family should accept the same. It would have been a different matter if the separation had taken place prior to the Notification issued under Section 9(1) of the Act of 1957. That is not the case here.

7. For aforesaid reasons, we do not find any case made out to interfere in writ jurisdiction. The Writ Petition is thus dismissed with no order as to costs.