



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

WRIT PETITION NO.338 OF 2021

Sau. Vanita w/o Bhaskar Vaidya, aged 43
years, Occupation Cultivator –
Household, Resident of Pirawa, Tahsil
Bhiwapur, District Nagpur.

... PETITIONER

VERSUS

1. Western Coal Fields Limited, through
its Chairman, Coal Estate, Civil Lines,
Nagpur.
2. Chief General Manger, Umrer Area,
Umrer Project, Umrer, District
Nagpur.
3. Area General Manager, Umrer Area,
Umrer Project, Umrer, Distrit Nagpur.
4. Bhaurao s/o Bakaram Shendre
(Dead) aged 70 years, Occupation
Cultivator, Resident of Pirwa, Tahsil
Bhiwapur, District Nagpur.
- 4a. Hemand s/o Bhaurao Shendre, aged
about 40 years, Occu : Service, R/o
ASS Flat No.206, Jindal Complex, 3rd
floor, Near ST Bus Stand, Umred,
Tahsil Umred District Nagpur.
- 4b. Kamlabai wd/o Bhaurao Shendre,
aged about 60 years, Occu :
Household, R/o Pirawa, Post Besur,

Tahsil Bhiwapur, District Nagpur

Amendment carried out as per order
dated 11.12.2023 in CAW No.
2352/2023

... RESPONDENTS.

Shri V.D. Muley, Advocate for the petitioner.
Shri C.S. Samudra, Advocate for the respondent nos. 2 to 4.

CORAM : VINAY JOSHI AND SMT. M.S. JAWALKAR, JJ.
DATED : 24.06.2024.

ORAL JUDGMENT : (Per : Vinay Joshi, J.)

RULE. Rule made returnable forthwith.

2. The matter is taken up for final disposal by consent of the parties.

3. The petitioner owns certain piece of land in the village Pirwa, Tahsil Bhivapur, which was acquired by the Western Coal Fields Ltd. (WCL). The petitioner urged for grant of an employment as per the Rehabilitation and Resettlement Policy of Coal India Limited 2012 (hereinafter referred to as 'the R and R Policy'). The respondent nos. 2 and 3 (WCL) have declined to grant an employment vide communication dated 03.06.2019 for the reason that the petitioner has

not obtained no objection certificate from the joint holder of the acquired land. The petitioner seeks to quash the impugned communication and directions for providing an employment for the family of the petitioner as per the R and R Policy.

4. The facts in brief are that the petitioner has purchased an agricultural land bearing survey no.41/A admeasuring 1.01 H.R. situated at village Pirva from the respondent no.4 vide registered sale-deed dated 10.02.2003. At the time of the petitioner entering into the transaction, the revenue extract of the land under alienation of survey No.41/A denotes the area as of 1.01 H.R. standing in the name of respondent no.4. The sale-deed executed between the parties equally reflects that entire land of Survey No.41/A ad-measuring 1.01 H.R. has been alienated in favour of the petitioner.

5. Respondent no.4 initially owned total land ad-measuring 2.15 H.R. bearing old Survey No.41 of village Pirva. Earlier, he sold 1.01 H.R. land to one Tulsiram, which was separately numbered as Survey No.41/B. Later on, by virtue of sale-deed dated 10.02.2003, respondent no.4 sold remaining 1.01 H.R. land to the petitioner as per revenue record. Respondent no.4/ Bhaurao Shendre (original owner) realized that when he has earlier sold piece of land 1.01 H.R. in favour

of Tulsiram, the remaining land was ad-measuring 1.14 H.R. which ought to have been of Survey No.41/A. However, the revenue record shows that land of Survey No. 41/A was ad-measuring 1.01 H.R. only. After sell of remaining land to the petitioner, respondent no.4 Shendre has filed revenue proceedings with a contention that despite sell of 1.01 H.R. land to the petitioner, still 0.13 R. land remained of his ownership and thus, a separate revenue extract be issued. In said proceedings, the Revenue Authorities though declined to issue a separate revenue extract for 0.13 R. land, however the said piece of land being remained of the ownership of respondent no.4, has directed to correct the revenue record of the land bearing Survey No.41/A. In other words it was directed that revenue record of land Survey No. 41/A, which was earlier showing only 1.01 R. land owned by the petitioner, be corrected as Survey No.41/A ad-measuring 1.14 R. out of which the petitioner is the owner of 1.01 H.R. as per sale-deed, whilst the original owner Shendre would be the owner of remaining 0.13 R. land.

6. In said background, after acquisition, the petitioner has applied to the respondent no.1/WCL for getting an employment as per the R and R Policy. The Authorities have considered the petitioner's claim and found that the acquired land i.e. Survey No.41/A is jointly

owned by the petitioner as well as by the original owner Shendre and thus, only one employment can be provided on said unit of land bearing Survey No.41/A as per the R and R Policy. Learned Counsel for the WCL pointed out that original owner Shendre (respondent no.4) has also applied for an employment on account of acquisition. In the circumstances, vide impugned communication, the respondent WCL has directed the petitioner to obtain no objection certificate of the co-owner as per the Standard Operating Procedure ('SOP').

7. The learned Counsel for the petitioner would submit that the petitioner has purchased entire land bearing 41/A, which was shown to be ad-measuring 1.01 H.R. at the time of sale-deed. It is submitted that, later on, by way of correction 0.13 R. land was inserted into land Survey No.41/A. Due to the prevention of fragmentation as per the provisions of the Maharashtra Prevention of Fragmentation and Consolidation of Holding Act, the said 0.13 R. land was included in Survey No.41/A. It is also submitted that as per the R and R Policy for every two acres of land one employment can be given. According to the petitioner, he owns more than two acres land i.e. 1.01 H.R., which was acquired and thus, he is entitled for employment.

8. Learned Counsel Shri Samudre appearing for WCL would

submit that there is no dispute that on account of acquisition of land bearing Survey No.41/A one employment would be provided. However, he has pointed out that as per the SOP, one 7/12 extract would be considered as one holding for an employment. According to him, since the revenue extract of Survey No.41/A is one, as per the R and R Policy one employment can be given. Moreover, it is submitted that in terms of the R and R Policy while giving an employment, the consent/no objection of another holder is necessary, which was directed by the impugned communication.

9. The respondent no.4, who stated to have also approached to the WCL for employment, was served, but he remained absent. After death of respondent no.4 his legal heirs i.e. respondent no.4a and 4b have been incorporated and served but they chooses to remain absent. In the circumstances, logically we should take that they have conceded the petitioner's claim by remaining absent.

10. There is no dispute that WCL has to give one employment for one holding i.e. for acquisition of land Survey No.41/A of village Pirva. The history denotes that under assumption of purchasing entire Survey No.41/A the parties have entered into the sale transaction. The revenue extract of Survey No.41/A of the year 2003 i.e. at the time of

entering into the sale-deed also shows that the said land was ad-measuring 1.01 R. only. The sale-deed is also specific that entire land Survey No.41/A was purchased meaning thereby there is no reference that a portion ad-measuring 0.13 R. has been left with the original owner. However later on the revenue record was corrected by inserting name of original owner of remaining land ad-measuring 0.13 R. Thus, by virtue of said revenue correction, the respondent no.4 was shown to be joint owner, which needs not be considered as the transaction of sell was of entire Survey No.41/A to the petitioner. No doubt the petitioner would get title as per his sale-deed. In the circumstances, we are of the view that the petitioner is only eligible to secure an employment as per the R and R Policy against acquisition of a land bearing Survey No.41/A which is as per corrected revenue record ad-measuring 1.14 H.R. In above peculiar facts, we may clarify that the petitioner need not require to seek no objection of the joint holder of the land as they did not respond to this petition. In above facts, the petitioner cannot be compelled to obtain no objection of respondent no.4 joint owner.

11. In view of above, by allowing the writ petition we pass the following order :

(a) We hereby quash and set aside the communication dated

03.06.2019 of respondent no.3.

- (b) We direct to the respondent nos. 1 to 3 to provide an employment to the family of the petitioner against the acquisition of land bearing Survey No.41/A subject to the eligibility on other count.

12. The petition stands disposed of in above terms. Rule is made absolute. No costs.

(SMT. M.S. JAWALKAR, J.)

(VINAY JOSHI, J.)

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