
(1995) 04 RAJ CK 0002

In the Rajasthan High Court

Case No : Civil Writ Petition No. 2467 of 1991

Angrej Singh and Others

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 14-04-1995

Acts Referred:

Citation : (1994) 1 WLC 123 : (1995) 1 WLN 371

Hon'ble Judges : R.R. Yadav, J

Bench : Single Bench

Final Decision : Allowed

Judgement

R.R. Yadav, J.—The instant writ petition has been filed by the petitioners for quashing the order dated 26.4.91, Anx.3 to the writ petition, passed by the Addl. Chief Engineer, Irrigation, North Zone, Hanumangarh Junction on the ground inter alia that without affording an opportunity of being heard to the petitioners the order passed by the Superintending Engineer dated 3.4.91, Anx. 2 to the writ petition, has been set aside.

2. According to the petitioners, the impugned order Anx.3 passed by respondent No. 1 is against the principle of natural justice and fair play. As a matter of fact, without giving an opportunity of hearing the respondent No. 1 has no jurisdiction to set aside the order passed by Superintending Engineer dated 3.4.91 Anx. 2 and further has no authority to remand the case back to Superintending Engineer without giving an opportunity heard to the petitioners.

3. Although this case is not posted for final disposal but with the consent of the parties this case is finally heard and decided on merits.

4. I have heard the learned Counsel for the petitioners Mr. H.S.S. Kharlia as well as Mr. B.C. Mehta, appearing on behalf of respondent No. 1 and Mr. R.K. Singhal appearing on behalf of respondent Nos.2 to 5.

5. A close scrutiny of the averments made in paragraph 4 of the writ petition

reveals that respondent Nos. 2 to 5 being aggrieved to the order dated 3.4.91 Anx.2 to the writ petition passed by Superintending Engineer, Irrigation, Hanumangarh preferred an appeal before the Addl. Chief Engineer, North Zone, Hanumangarh Junction. The respondent No. 1 vide his ex-parte order dated 26.4.91 without giving any notice to the petitioners remanded the case to the Superintending Engineer with a direction to him to review his order dated 3.4.91. Thus the respondent No. 1 has made the well considered order dated 3.4.91 passed by the Superintending Engineer non-est without meeting the reasons given by the Superintending Engineer. As a matter of fact, the impugned order Anx.3 to the writ petition is per se illegal and without jurisdiction. The respondent No. 1. has no authority in law to make the order passed by Superintending Engineer non-est without giving an opportunity of hearing to the petitioners.

6. A reply has been filed on behalf of the State with regard to the averments made in paragraph 4 to the writ petition. The averments made in paragraph 4 of the writ petition to the effect that the impugned order dated 26.4.91 has been passed without giving an opportunity of hearing to the petitioners are not denied.

7. As a result of the aforementioned discussion, the instant writ petition is allowed. The order dated 26.4.91, Anx.3 to the writ petition, passed by the respondent No. 1 is hereby quashed. The matter is remanded back to the respondent No. 1 to decide the controversy between the parties after giving an opportunity of hearing to the petitioners and others who were parties before Superintending Engineer by a speaking order. Costs made easy.