

(2001) 05 KAR CK 0011
In the Karnataka High Court
Case No : Writ Petition No. 26985 of 2000

Anjaneyappa

APPELLANT

Vs

The Divisional Commissioner, Bangalore and Another

RESPONDENT

Date of Decision : 29-05-2001

Acts Referred:

Citation : AIR 2001 Kar 352 : (2002) 1 KarLJ 173 : (2001) 3 KCCR 138 SN

Hon'ble Judges : R. Gururajan, J

Bench : Single Bench

Advocate : P.R. Prabhu, for the Appellant; H.B. Mahesh, Government Pleader, for the Respondent

Final Decision : Allowed

Judgement

The Court

1. The petitioner in this petition has challenged the order at Annexure-E and F, dated 3-7-1999 passed in Revision No. D.V.S./R.P./No. ISO/99-2000.

2. The petitioner is an Archak performing the pooja in Sri Gopalaswamy Temple at Bagalahalli Village, Kolar District. The petitioner has certain Inam lands measuring 3 acres 38 guntas of land at Bagalahalli Village. The said lands were allotted in terms of Religious and Charitable Inams Abolition (Karnataka Amendment) Act, 1995 (for short the "Act"). The respondent 2, the Special Deputy Commissioner fixed certain rates in terms of Section 19(1) of the Act at the rate of Rs. 361/-. The petitioner states that on identical circumstances, the very Deputy Commissioner has granted Rs. 750/- to Rs. 2,735/- in his order as per Annexure-D. The petitioner aggrieved by the order of the Deputy Commissioner has preferred a revision before the Divisional Commissioner u/s 21-A of the Act. The Divisional Commissioner, without providing an opportunity has passed the impugned order. The petitioner, in these circumstances, is before this Court challenging the order Annexure-F, dated 22-7-1999.

3. Heard the Counsel. A perusal of the impugned order would show that no

opportunity as such has been provided to the petitioner by the Divisional Commissioner. In fact, a categorical assertion is made in para 6 of the objection and the same is not countered by the respondents. Section 21-A provides for a revision to the Divisional Commissioner. The said provision is as under;

"21-A, Revision by the Divisional Commissioner.--If at any time after the determination of basic annual sum u/s 21, the Divisional Commissioner is satisfied that the basic annual sum so determined was not correctly determined and requires to be revised with reference to any new and important matter which has since come to his notice or on account of some mistakes or error apparent on the face of the records or on application of an aggrieved party or for any other sufficient reason, he may suo motu revise the basic annual sum determined u/s 21 either by increasing or decreasing it:

Provided that no order shall be passed except after giving the person or persons affected a reasonable opportunity of being heard:

Provided further that if any excess amount has been paid, such excess amount shall be adjusted in the subsequent basic, annual sum to be paid and in case, such amount cannot be so adjusted, the same may be recovered as arrears of land revenue".

4. A reading of the said provision would show that no order u/s 21-A is to be passed except after giving the person/persons affected, a reasonable opportunity of being heard in the matter. Admittedly, the petitioner is aa aggrieved person and he has not been heard, as I see from the impugned order. In these circumstances and in the light of the clear provision u/s 21-A of the Act, I deem it proper to set aside the impugned order with a direction to the Divisional Commissioner to issue a notice to the petitioner and hear the matter and pass orders in accordance with law. The contentions are left open.

5. The Divisional Commissioner is directed to complete the proceedings within six months from today.

6. Mr. H.B. Mahesh, Government Pleader is permitted to file his vakalath within four weeks.

7. The writ petition is allowed. Annexure-F is set aside. The matter is remitted back for fresh disposal in accordance with law and in accordance with the direction in this order.