
(2020) 09 UK CK 0041

In the Uttarakhand High Court

Case No : Writ Petition (S/S) No. 861 Of 2019

Ankit Kumar

APPELLANT

Vs

State Of Uttarakhand & Another

RESPONDENT

Date of Decision : 17-09-2020

Acts Referred:

Citation : (2020) 09 UK CK 0041

Hon'ble Judges : Lok Pal Singh, J

Bench : Single Bench

Advocate : B.D. Upadhyay, Charanjeet Kaur, P.C. Bisht, Anjali Bhargava, Sushil Vashishtha, Mohd. Husnain, Vinay Bhatt

Final Decision : Allowed

Judgement

Lok Pal Singh, J

1. Petitioner has approached this Court seeking the following reliefs:-

(i) Issue a writ, order or direction in the nature of certiorari to call for the record of the case and to quash the order/letter Pra0 Pra0/2018-19/404 dated 04.03.2019 passed by respondent no.2 by which the respondent no.2 rejected the claim of the petitioner.

(ii) Issue a writ, order or direction in the nature of mandamus directing the respondents to provide employment to the petitioner in terms of the agreement executed between their grandfather and sugar factory.

2. Factual matrix of the case is that the Kisan Sahkari Chinni Mill Ltd., Rajpur Puranpur, Nadehi, Post Jaspur, District Nainital was established in the year 1974. At the time of establishment, some farmers provided their land for the Mill, in lieu whereof, they were given share in the respondent Mill as per the area of their land. Besides this, the land owners/shareholders and the respondent Mill were entered into an agreement whereby it was provided that on the basis of land provided, employment will be given to the farmer himself, his son/grandson

as per their qualification in the factory. Petitioner contends that as per the condition of the agreement, each shareholder and his successor up to third generation will be entitled to get employment in the said Mill as per his qualification. The grievance of the petitioner is that he is the heir /member of one of such family whose land was acquired for the purpose of establishment of factory but he has been denied employment by the respondent, despite taking the land. In this regard, several representations were made before the authorities but no heed was paid thereon. Lastly, petitioner's father moved a representation dated 12.12.2018 before respondent no.2 requesting to provide employment to the petitioner, which has been rejected by the respondent no. 2 vide order dated 04.03.2019, on the ground that the name of petitioner's father is not present in the list of those landowners who transferred their land in favour of the respondent Sugar Mill.

3. Counter affidavit has been filed by the respondent no.2 stating that as per the condition of the agreement between the original land donor Shri Balka Singh, employment was provided to his son Rishipal (uncle of petitioner) who also retired from service, and after his retirement, neither his legal heir nor any other grandson of Late Balka is entitled to get the service in Sugar Mill.

4. Learned counsel for the petitioner submits that as per the agreement executed between the shareholder and the respondent Mill, the family of the shareholder is entitled to get employment upto three generations and as such the respondent Mill has wrongly denied employment to the petitioner. He further submits that even if the first employment was provided to son of land donor viz. uncle of petitioner, the petitioner is also entitled for employment in the sugar mill.

5. Per contra, learned counsel for respondent no.2 submits that as per the language and understanding of the agreement, either the son or grandson is entitled to get employment in the respondent Mill. He further submits that there is a stroke "/" between Purta (son) and potra (grandson) which means that either the son or the grandson would be provided the employment. He further submits that in the present case son of original land donor i.e. uncle of petitioner has already been provided employment, therefore, the petitioner who is the grandson is not entitled to provide the employment. In order to buttress his submissions, learned counsel for respondent no.2 has placed reliance on the following decisions of different High Courts:-

(i) Hon'ble High Court of Madhya Pradesh 2014 (0) Supreme (MP) 455 in Election Petition No.10 of 2014 Rasal Singh v. Election Commission of India and others.

(ii) Hon'ble High Court of Judicature at Patna in Civil Writ Jurisdiction Case No.17210 of 2011 Awadesh Prasad vs. State of Bihar, decided on 25.07.2012.

(iii) Balsara Home Products v. Director General cited in 2006 (1 to 6) DLT 391.

6. I have heard learned counsel for the parties and perused the entire material available on record.

7. Indisputably, the land of the petitioner's grandfather was taken for the establishment of the sugar mill. No compensation was paid for the land acquired, instead a share certificate was issued to the land donor and a unilateral letter was written on behalf of the sugar mill which suggests that employment will be provided to the landowner, his son/grandson, as per their eligibility. While rejecting the representation of the petitioner, the respondent Sugar Mill took a ground that name of petitioner's father is not in the list of land donors whereas subsequently in the counter affidavit they took a contrary stand that the uncle of the petitioner was provided employment in the Sugar Mill therefore now the petitioner is not entitled for getting employment. Be that as it may. The fact remains that the petitioner is grandson of land donor Shri Balka Singh and as per the agreement dated 5.08.1974 executed between Balka Singh and the Sugar Mill, he is fully entitled to be considered for employment in the factory. But, in the instant case, on the one hand, the petitioner has been deprived of the land, whereas on the other, he is being denied employment by the respondent. As far as agricultural land is concerned, it caters the need of the families upto the future generations. The respondent no.2 Sugar Mill, which is an instrumentality of the State, should have considered the fact that the land owner who donated the land for establishment of sugar mill, their future generation should not be left starving. The interpretation of the agreement by the respondent to the effect that either the son or grandson will be provided employment is unsustainable in the eyes of law. It is, accordingly, held that denial of employment to the petitioner by the respondent mill is arbitrary and illegal. Insofar as the judgments cited by learned counsel for respondent no.2 are concerned, the same are not applicable to the facts and circumstances of the present case and are, therefore, of no help to the respondent no.2.

8. In the light of aforesaid, writ petition is allowed. Impugned order/letter dated 04.03.2019 is hereby quashed. A mandamus is issued to the respondent no.2 to consider the case of the petitioner for employment, as per his eligibility, within a period of three months from today.

9. No order as to costs.