

(2000) 02 KAR CK 0023
In the Karnataka High Court
Case No : Writ Petition No. 30845 of 1995

Basavarajappa

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 28-02-2000

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2000) ILR (Kar) 2666 : (2000) 4 KarLJ 521 : (2000) 4 KCCR 249 SN

Hon'ble Judges : V. Gopala Gowda, J

Bench : Single Bench

Advocate : Sri P.G. Mogali, for the Appellant; Sri A. Padmanabha, High Court Government Pleader and Sri S.V. Angadi, for the Respondent

Judgement

1. Mr. A. Padmanabha, learned High Court Government Pleader is directed to take notice on behalf of respondents 1 to 3.

2. The petitioner borrowed loan from 4th respondent-Malaprabha Grameena Bank and dug a bore-well in his land. The bore-well failed. Under the Irrigation Bore-wells Drilling Programme (IBDP) and Integrated Rural Development Programme (IRDP) the amount taken for failed borewells would be waived. Since the borewell got drilled by the petitioner failed, he sought to avail the benefit under the aforesaid scheme. The concerned Geologist certified that the borewell is failed. The Tahsildar also certified accordingly. The request of the petitioner was rejected by the 2nd respondent with a direction to submit fresh application through 4th respondent-Bank. The petitioner complied with the same. Since there was no consideration, he filed W.P. No. 23856 of 1995 and in that this Court directed 2nd respondent to dispose of the application of the petitioner. Pursuant to such direction, the 2nd respondent has issued the impugned endorsement at Annexure-D, dated 26-6-1995 rejecting the claim of the petitioner on the ground that in respect of the cases prior to or after 1-7-1987, sanction cannot be made for borewells because no such scheme was in existence now. Aggrieved by the same the petitioner has filed this writ petition seeking to

quash the said endorsement and to direct the 2nd respondent to sanction the amount under the aforesaid scheme.

3. The fact that the borewell dug by the petitioner had failed is not in dispute. It is also not in dispute that petitioner has fulfilled all the formalities to obtain the benefit under the scheme that was in vogue for failed borewells. At an earlier point the petitioner was directed to submit fresh application by the 2nd respondent through 4th respondent-Bank. The petitioner complied with the same. Therefore, it was not open to the 2nd respondent to issue the impugned endorsement at Annexure-D. Had the reason assigned in the impugned endorsement now been assigned earlier when he was directed to submit fresh application through 4th respondent, that was a different matter. The petitioner was compelled to approach this Court earlier in W.P. No. 23856 of 1995 seeking a direction to dispose of his application which was filed pursuant to the direction of 2nd respondent. Curiously, the impugned endorsement has been issued on the same day when this Court directed the 2nd respondent to dispose of petitioner's application. It only shows that only to overcome the direction of this Court the impugned endorsement has been issued and there is totally non-application of mind to the facts of case by the 2nd respondent.

4. Having regard to the peculiar facts and circumstances of this case and taking into consideration the efforts made by the petitioner and the agony undergone by him, it is a fit case to direct the 2nd respondent to consider grant of relief sought for by the petitioner. However, this shall not be treated as a precedent for any other case.

5. Accordingly, the impugned endorsement at Annexure-D is quashed. The 2nd respondent is hereby directed to consider the application of the petitioner on the basis of the reports of the Geologist and the Tahsildar. The 2nd respondent shall pass orders within a period of two months and if no orders were to be passed within the said period, the recovery proceedings against the petitioner shall be deferred until final order is passed by the 2nd respondent.

6. The writ petition is disposed of as above.

7. Mr. A. Padmanabha, learned High Court Government Pleader who was directed to take notice and heard, is permitted to file his memo of appearance within four weeks.