
(2012) 04 MP CK 0125
In the Madhya Pradesh High Court
Case No : Writ Petition No. 1044 of 2005

Bharat Kumar

APPELLANT

Vs

The State of M.P. and Others

RESPONDENT

Date of Decision : 11-04-2012

Acts Referred:

Citation : (2012) 04 MP CK 0125

Hon'ble Judges : S.K. Gangele, J;Brij Kishore Dube, J

Bench : Division Bench

Advocate : Pratip Visoriya, for the Appellant; Vivek Khedkar, D.A.G. for the respondents no. 1 and 2/ State, for the Respondent

Final Decision : Dismissed

Judgement

1. Heard. The petitioner has filed this petition against the order dated 24-03-2005 (Annexure P/1) passed by the Collector, Datia.
2. The petitioner was granted sand quarry of Village Mastura, survey no.399 an area 1.020 hectare in an open auction. The petitioner submitted a bid of Rs.8 lacs and he deposited Rs.2,40,000/-as security amount on 22nd March, 2002. Thereafter, he was directed to deposit an amount of Rs.2 lacs as first installment. He did not deposit the same neither executed any agreement within a period of one month. Hence, the security amount was forfeited by Janpad Panchayat vide order dated 30/4/2002 and auction was cancelled. Against the action of Janpad Panchayat, the petitioner preferred an appeal before the Collector, Datia. The Collector directed the Janpad Panchayat to grant time to the petitioner to execute the agreement. The petitioner was called by Janpad Panchayat and again Janpad Panchayat directed the petitioner to deposit the amount of Rs.2 lacs as first installment. The petitioner did not deposit the same. Hence, the Janpad Panchayat vide order dated 29th July, 2002 cancelled the auction. Against the aforesaid order, the petitioner preferred an appeal that has also been dismissed by the Collector. Then, the petitioner preferred a petition before this Court which was registered as Writ Petition No.2761/2002. The learned Single Judge of this

Court disposed of the petition with the following observations:

However, from the record, it is seen that a sum of Rs. 2,40,000/- (Rs. two lacs and forty thousand) was deposited by the petitioner and there is no order passed by the competent authority with regard to forfeiture or refund of the aforesaid amount. Accordingly, the matter is remanded back to respondent no.2 for considering the limited question of refund of the amount of Rs.2,40,000/- deposited by the petitioner with respondent no. 3 and any other amount which was deposited for execution of the lease deed. Accordingly, Respondent no. 2 shall proceed to decide the claim of the petitioner for refund of the amount deposited by him. On the petitioner filing a detailed claim in this regard respondent no.2 after hearing the petitioner, respondent no.3 shall proceed to take action in accordance with law or settling or refunding the aforesaid amount or to pass such order as are permissible in law with regard to the claim made by the petitioner.

For the present, petition stands allowed and disposed of with the aforesaid.

3. Thereafter, the Collector again heard the petitioner and vide impugned order dismissed the appeal. The Collector specifically observed in the impugned order that the petitioner did not deposit the first installment amount of Rs.2 lacs within a period of seven days which was necessary for the purpose of execution of agreement. Hence, the petitioner failed to fulfill the terms and conditions of auction.

4. Learned counsel for the petitioner in support of his contention, relied on a judgment passed by Division Bench of this Court in the case of S.R.S. Infra Project Pvt. Ltd., Gwalior Vs. Gwalior Development Authority, Gwalior and another,

5. The aforesaid judgment is not applicable in the facts and circumstances of present case.

6. From the facts of the case, it is clear that the petitioner did not deposit the amount even though the Janpad Panchayat granted time to the petitioner in second round, at that time also, the petitioner failed to deposit the necessary amount in accordance with terms and conditions of the agreement. In such circumstances, in our opinion, the Collector has rightly dismissed the appeal filed by the petitioner. Consequently, we do not find any merit in this petition, it is hereby dismissed. No order as to costs.