
(2005) 05 PAT CK 0027
In the Patna High Court
Case No : CWJC No. 13561 of 2002

Bindeshwar Rai

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 05-05-2005

Acts Referred:

Citation : (2005) 3 PLJR 312

Hon'ble Judges : Aftab Alam, J

Bench : Single Bench

Advocate : K.P. Vadav and Suresh Board Kumar, Rajesh Bhardwaj, for the Appellant;

Final Decision : Dismissed

Judgement

Aftab Alam, J.—This writ petition is in regard to a dispute over the amount refundable to the petitioner because he was able to make collections of ground rent and market fee from the Hat for only about a month even though the settlement was made in his favour for a full year and he had made the deposits accordingly. The facts of the case are simple and without controversy. An auction was held for the settlement of Bishwa Revenue Hat for the year 2000-2001 in which the petitioner made the highest bid of Rs. 1,72,500/- in respect of ground rent and Rs. 22,500/- as market fee. The offer made by the petitioner being the highest it was accepted and as per the terms and conditions of the auction notice the petitioner deposited Rs. 86,250/- being 50% of the amount bid by him as ground rent and the full bid amount of Rs. 22,500/- as market fee. But before an agreement was executed in his favour a dispute was raised by someone offering a higher amount for the settlement of the Hat and alleging that he was unlawfully prevented from taking part in the auction. The claimant was asked to deposit an amount 10% in higher than total amount deposited by the petitioner and on his doing so the competent authority gave a direction for holding a fresh auction, for the settlement of the Hat. At that stage, the petitioner came to this court in C.W.J C. No. 3225 of 2000 challenging the decision to hold a fresh bid

and seeking a direction for the settlement of the Hat in his favour on the basis of the previous bid. In that case an interim order was passed on the basis of which the ground rent and market fee from the Hat in question was collected for the period 1.4.2000 to 26.2.2001 by the Market Committee, Sursand through its own staff. The writ petition was finally allowed by order dated 13.2.2001 by which the decision to hold a fresh auction was quashed and the concerned authorities were directed to issue Parwana (for making collections from the Hat) to the petitioner. In pursuance of the court's direction Parwana was issued to the petitioner for collection of ground rent and market fee from the Hat for the period 27.2.2001 to 31.3.2001 (what remained of the period 2000-2001). During that period the petitioner was able to collect Rs. 2,153/- as ground rent and Rs. 20,525/- as market fee.

2. The petitioner then made an application before the Market Committee to give to him its entire collections from the Hat for the period 1.4.2000 to 26.2.2001 since he was prevented from making the collections due to circumstances beyond his control. It may be noted here that during the aforesaid period the Market Committee was able to collect Rs. 1,28,521/- and Rs. 3,33,317/- as ground rent and market fee respectively.

3. The claim of the petitioner was forwarded by the Market Committee to the Agriculture Marketing Board where it was examined in detail and on a consideration of all the material facts and circumstances the petitioner was held entitled to a refund of Rs. 60,088/-. The Market Committee was advised accordingly and the petitioner was intimated by letter dated 5.12.2002 (Annexure-F) to come and collect the refundable amount at his convenience.

4. The petitioner felt that the refund amount offered to him was very low, insufficient and inadequate. He, therefore, did not accept the offer and filed this case seeking from the court a direction to the concerned authorities to refund the entire amount collected by the Market Committee from the Hat in question during the period April 2000 to February 2001.

5. The respondent authorities have filed a counter affidavit and a supplementary counter affidavit justifying the amount offered to the petitioner as refund. In course of hearing Mr. K.P. Yadav, learned counsel appearing for the Marketing Board also produced the office records that contain a detailed calculation in regard to the amount offered to the petitioner as refund. But before proceeding to examine the rival claims of the parties it is important here to take note of certain facts that are not in dispute.

6. The order of this court in the previous writ petition (C.W.J.C. No. 3225 of 2000) did not say anything on the issue of any refund to the petitioner. The petitioner's claim was, therefore, required to be considered by the Market Committee/ Marketing Board and disposed of in a reasonable way, in accordance with the rules.

7. The petitioner bid a far higher amount (Rs. 1,72,500/-) as ground rent in

relation to a very small amount of Rs. 22,500/- as market fee for the simple reasons that as per the norms the actual collection of ground rent is to be retained by the settlee but the actual collection of market fee, in excess of the amount deposited as per the bid, has to be given over to the Market Committee on payment of commission at certain rates. The petitioner's bid in respect of the ground rent was quite inflated while his bid for the market fee was very low and unrealistic is also shown from the actual collections made by the Market Committee during the period of eleven months (ground rent: Rs. 1,28,521/- and market fee: Rs. 3,33,317/-).

8. The third fact that is to be taken note of is that the Hat in question was a biweekly Hat and during the full financial year the settlee would make collections from 104 Hats. During the period 27.2.2001 to 31.3.2001 nine hats were held and thus the petitioner's collections were the amount appertaining to 9 out of 104 Hats. In the light of these facts the Board made the calculations in the following manner:

By dividing the total bid amount by 104 the ground rent collection for one hat can be easily worked out and by multiplying it by 9 the ground rent collection for 9 hats as per the petitioner's own bid would come to Rs. 14,931/-.

9. Under this head the petitioner had deposited Rs. 86,250/-, thus the balance would come to Rs. 71,319/-.

10. The petitioner claimed to have actually collected Rs. 2,153/-. Hence, the amount refundable to him as ground rent would be Rs. 69,166/-.

11. A similar calculation has been made under the head market fee on the basis of which it appears that the amount of market fee collected by the petitioner was short by Rs. 9,077/-. Adjusting the short fall of Rs. 9,077/- against Rs. 69,166/- refundable to the petitioner as ground rent the total amount receivable by the petitioner would come to Rs. 60,088/-.

12. On a careful consideration of the calculation made by the Board the details of which are contained in the office record and on hearing counsel for the petitioner and Mr: Yadav representing the Marketing Board, I find and hold that the amount of refund to the petitioner has been arrived at by the Board on a reasonable and proper basis and the matter does not warrant any interference by this court in exercise of its writ jurisdiction. This writ petition is accordingly dismissed but with no order as to costs.