

(2000) 11 CHH CK 0012
In the Chhattisgarh High Court
Case No : Writ Petition No. 1583 of 2000

Bodh Singh Thakur

APPELLANT

Vs

State and others

RESPONDENT

Date of Decision : 09-11-2000

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2001) 1 CGLJ 14 : (2001) 88 FLR 420 : (2001) 2 LLJ 675 : (2001) 1 MPHT 10 : (2001) 1 MPJR 1

Hon'ble Judges : R.S. Garg, Acting C.J.

Bench : Division Bench

Advocate : Shri Rajkumar Singh, for the Appellant; Shri Ranveer Singh and Shri R. Jha, for the Respondent

Final Decision : Allowed

Judgement

R.S. Garg, Ag. C.J.

By this petition under Article 226 of the Constitution of India, the petitioner seeks to challenge the correctness, validity and propriety of the directions issued by respondent Nos. 2 and 3 against the interest of the petitioner in not permitting him to undergo the training for joining the services.

The facts necessary for disposal of the present petition are that the petitioner claiming to be an oustee of the land applied for an appointment to the respondent Nos. 2 and 3, who in their turn issued an appointment order and permitted the petitioner to proceed on training. According to the petitioner after some time he was orally asked to quit the training and go back. The petitioner says and submits that he does not know as to what happened and for what reason he was removed.

The respondent Nos. 2 and 3 placing their reliance upon the order of appointment submit that after the appointment order was issued in favour of the petitioner, it came to their knowledge that someone else was appointed in lieu of

the land acquisition as nominee of the land oustee and as only one man could be appointed, the petitioner was discontinued. According to the respondent Nos. 2 and 3, under Annexure R-1, one Balmukund Devangan was appointed and under Annexure R-2, the services of the petitioners were rightly terminated.

Submissions of the learned counsel for the petitioner are that appointment under Annexure R-1 itself could not be treated to be final and in any case an enquiry ought to have been made in presence of the petitioner after giving him a proper notice and proper opportunity to represent his case and cause. He submits that abrupt termination of his services is bad. Learned counsel for respondent Nos. 2 and 3 submits that in accordance with the appointment order they were entitled to make enquiry and even otherwise, they could terminate the services of the petitioner. On being asked by the Court as to whether the enquiry was made in presence of the petitioner or not and whether the petitioner was issued any show-cause notice before his termination, the learned counsel for respondent Nos. 2 and 3 after going through the return, was unable to contend that either the enquiry was made in presence of the petitioner or any show-cause notice was issued to the petitioner.

I have heard the parties.

The very basic principle of natural justice i.e., "audi alteram partem" presses into service two requirements; firstly, that nobody shall be condemned unheard and secondly, no one shall be a Judge in his own cause. The very basic principle is that none shall be condemned unheard would cover within its sweep that if someone proposes to pass an order against the interest of someone, then the persons proposing to pass the order must hear the other party or in any case grant him an opportunity of making a proper representation.

In the present case, it was mandatory upon the respondent Nos. 2 and 3 to issue notice to the petitioner requiring him to show cause as to why in view of the appointment of Balmukund Devangan as nominee of the original recorded holder, his appointment be not terminated. They were also required to inform the petitioner that they were placing reliance upon Annexure R-1. They were also required to give some opportunity to the petitioner so that he, if wanted, could satisfy the respondent Nos. 2 and 3 that appointment of Balmukund Devangan was illegal and in fact, the order of appointment issued in his favour was in accordance with law.

It is trite law that if there are statutory rules then the same are required to be observed, but in absence of certain statutory rules, regulations, directions or the policies, the principle of natural justice are required to be followed because they always play a vital role and at least control the whim, caprice and arbitrariness of the person in authority. Nobody knows that if proper opportunity was given to the petitioner, what would have been the result. He could appear before the respondent Nos. 2 and 3 and satisfy them. It is a different thing that he could or could not satisfy the respondent Nos. 2 and 3, but he was certainly entitled to

notice and an opportunity to meet the charges or the allegations raised by respondent Nos. 2 and 3.

As the order Annexure R-2 is the result of procedure unknown to law, the same deserves to and is accordingly quashed. The respondents are free to make an enquiry into the appointment of the petitioner qua Balmukund Devangan, after giving proper opportunity not only to the petitioner but also to the said Balmukund Devangan, because in this enquiry ultimately the petitioner succeeds, then the said Balmukund Devangan would be removed.

The petition is allowed. No costs.

Writ Petition allowed.