
(2003) 04 JH CK 0019

In the Jharkhand High Court

Case No : Writ Petition (C) No's. 3316 of 2002 and 620 of 2003

Chaibasa Prakhand Matsyajibi Sahyog Samathi Ltd. and
Edmond Kerketta

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 22-04-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2003) 3 JCR 679

Hon'ble Judges : M.Y. Eqbal, J

Bench : Single Bench

Advocate : M.M. Prasad, A. Sen and J. Mukherjee, for the Appellant; G.P.I., for the Respondent

Judgement

M.Y. Eqbal, J.—Both these writ petitions involving common question of fact and law have been heard and are being disposed of by this common order.

2. In CWJC No. 620 of 2003 the petitioner Chaibasa Prakhand Matasyajibi Sahyog Samithi Ltd. Has prayed for quashing the Office order dated 26.12.2002 issued under the signature of respondent No. 5, whereby as per the direction of the Deputy Commissioner the settlement of the tank made in favour of the petitioner has been cancelled/rejected.

3. Petitioners case is that it is a registered Co-operative Society and its area of operation is in the entire Chaibasa Sadar Block. Earlier the area of operation of the petitioner-society was Chaibasa Subdivision. In the year 1992 some of the tank and ponds of Chaibasa falling within the Chaibasa Block was decided to be settled for a period of long term lease. It is stated that petitioner along with other several persons applied for the said settlement but keeping in view of the instructions of the Government 5 tanks of the said block were settled in favour of petitioner on reserve price basis. A copy of the allotment order dated 24.6.2002 is annexed as Annexure-4 to the writ application. Petitioner, pursuant to the said allotment, alleged to have deposited first and second instalments amounting to

Rs. 40,560/-. It is alleged by the petitioner that after the said settlement, tanks were handed over to the petitioner who started investing sufficient fund. However, suddenly by letter dated 26.12.2002 they were informed that the aforementioned settlement of five tanks were cancelled by the respondents.

4. Respondents in their counter affidavit have stated that Narsanda Adivasi Matsyajivi Sahyog Samiti Ltd. lodged a complaint before the Deputy Commissioner, West Singhbhum, Chaibasa that his Samiti was debarred from taking settlement of Sadar Prakhand by the respondent, District Fishery Officer. On the basis of Assistant Registrar Co-operative Chaibasa's Memo No. 212 dated 14.5.2002 in which the operational area of the Samity has been wrongly mentioned as Narsanda Panchayat instead of Sadar Prakhand, Chaibasa. By order of the Deputy Commissioner, the Sub-divisional Officer Sadar made a detailed enquiry in this matter and found that allegation of Narsanda Society was true. The enquiry report was submitted to the Deputy Commissioner who after going through the record cancelled the settlement of Sadar Prakhand Chaibasa and simultaneously constituted a committee headed by Addl. Deputy Commissioner. It is stated that before canceling of settlement the petitioner was given notice for their appearance before the Deputy Commissioner on the question of cancellation of settlement. The Committee, after hearing the parties including the petitioner appeared before the committee, held that cancellation of settlement passed by the Deputy Commissioner was absolutely correct. Respondents' further case is that the Deputy Commissioner as Chairman of Fishery Development Agency, power of settlement of tank and cancellation of settlement is vested in him.

5. It appears that one Narsanda Adivasi Matsyajivi Samiti Ltd. and Harijan Swablambi Matsyajivi Sahyog Samiti intervened in the matter and tiled their intervention applications. The case of the inter-venor Narsanda Adivasi Matsyajivi Sahyog Samiti is that the territorial working area of intervenor society is Chaibasa Prakhand but by manipulating the said working area from Prakhand level to Panchayat level in one of the maps of the by-laws maintained in the office of the District Co-operative Officer, the intervenor therefore had been wrongly ousted from the settlement of the tank and the same has been settled with the writ petitioner. The said intervenor has also filed writ petition being WPC No. 3316 of 2002.

6. Another intervenor Harijan Swablambi Matsyajivi Sahyog Samiti in their intervention application have stated that there was a clear cut direction by the Deputy Director, Fishery South Chotanag-pur Division that the ponds of Sadar Prakhand, Chaibasa should be settled in favour of the intervenor Harijan Swablambi Matsyajivi Sahyog Samiti but the said ponds were settled in favour of the writ petitioner by the District Fishery Officer. It is stated that the amendment sought for by the writ petitioner relating to their area of operation was alleged to have been allotted by the District Co-operative Officer but in fact the alleged amendment is suspicious.

7. Admittedly the area of operation of the petitioner-society was Chaibasa Subdivision. Petitioner's case is that in 2002 an amendment of by laws was sought for changing the area of operation from entire Chaibasa Sub-division to Chaibasa Sadar Block. On the basis of said amendment the petitioner participated in the settlement of tank falling in the area of Chaibasa Prakhand and the tanks said to have been settled with the petitioner vide allotment order dated 24.6.2002. From perusal of the allotment order it appears that it was clearly mentioned that the settlement deed in respect of those tanks shall be finally, done after getting the approval from the competent authority, Admittedly neither any approval was given nor any settlement deed/lease deed was finalized rather on the basis of complaint made by other society, the Deputy Commissioner got an enquiry done by the Sub-divisional Officer and after issuing notice to the petitioner and after considering other materials came to the conclusion that the tank in question falls within the Chaibasa Prakhand and therefore it ought not to have been settled with the petitioner. The said allotment order was therefore cancelled. In my opinion therefore, the impugned order of cancellation of allotment order cannot be said to be arbitrary and violative of principles of natural justice. The impugned order therefore needs no interference by this Court.

8. So far CWJC No. 3316 of 2002 is concerned, in the light of the conclusion arrived by me this application is disposed of with a direction to the respondents that the petitioner's shall also be allowed to participate in the settlement of tank.

CWJC 3316/02 disposed off with direction.