

(2001) 07 JH CK 0108

In the Jharkhand High Court

Case No : C.W.J.C. No's. 2353 and 2480 of 1999 (R)

Gauri Bala Bhosh and Lall Mohan Sarkar

APPELLANT

Vs

Damodar Valley Corporation and Others

RESPONDENT

Date of Decision : 18-07-2001

Acts Referred:

Constitution of India, 1950 — Article 21, 226

Citation : (2001) 07 JH CK 0108

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

Bench : Single Bench

Advocate : Mahesh Tiwari, Rita Kumar and Usha Singh, for the Appellant; B.S. Lall, AAG and B. Sharti, JC to AAG, P.K. Bhomik, Md. Hatim and K.K. Mishra, for the Respondent

Final Decision : Dismissed

Judgement

M.Y. Eqbal, J.—Heard learned counsel for the parties and with their consent these two writ applications, having common reliefs claimed therein are disposed of by this common order.

2. Petitioners herein prayed for a direction upon the respondents to provide employment to them as their lands have been acquired for the purpose of construction of TAIL POOL DAM.

3. Petitioners' case is that in 1978 respondent-Damodar Valley Corporation (DVC) acquired the land for the purpose of construction of TAIL POOL DAM but till date petitioners who are the displaced persons have not been provided employment despite assurance jointly given by the respondent-State and the D.V.C. It is stated by the petitioners that the D.V.C. had evolved a scheme of recruitment in Class-III posts and a decision was taken that the persons who lost 75% of their lands shall be given employment. It appears that in view of the circular, a list of 37 persons were sent by the Deputy Commissioner, Dhanbad to the respondent-Corporation and in compliance of the same 37 persons were

provided with employment in the Corporation. However, appointment of these persons were challenged and ultimately in the judgment passed by the Patna High Court, it was held that 29 persons out of 37 persons in fact did not lose 75% of their lands and they illegally got employment. Consequently, the services of 29 persons were terminated. Petitioners' case is that in 1986 the Deputy Commissioner, Dhanbad again sent the name of 35 persons eligible for being appointed in the respondent-Corporation which includes name of these two petitioners, but the respondent-Corporation did not give employment by taking plea that the TAIL POOL DAM Project has been closed.

4. The respondent-D.V.C. filed counter-affidavit stating inter alia that the writ petitioners earlier moved to the Calcutta High Court but no relief was granted to the petitioners as the Corporation took specific stand that the project of TAIL POOL DAM has been abandoned and closed. It is stated by the respondent that similarly situated persons moved the Patna High Court by filing CWJC No. 1658/96R and the Division Bench with certain observation dismissed the writ application by judgment dated 19.12.1997. The respondents' further case is that by virtue of notification issued under Land Acquisition Act about 214 persons became affected as their lands have been acquired and necessary compensation was paid to them through the Deputy Commissioner.

5. Admittedly, lands were acquired in 1978 i.e. 23 years back. Besides compensation the displaced persons were given employment. However, consequently the services of most of the persons have been terminated on the ground that they were illegally given employment. The petitioners moved to Calcutta High Court in 1988 and sought relief for grant of employment as displaced persons. The Calcutta High Court disposed of the application being Civil Order No. 16413(W) of 1988 in terms of order dated 18.3.94 directing the petitioner to file representation before the authority concerned. However, against the judgment and order of the learned Single Judge of Calcutta High Court respondent-Corporation moved in appeal which was registered as FMA No. 14 of 1994. The said appeal was disposed of on 22.12.97 by a Division Bench of Calcutta High Court holding that the writ application itself became infructuous for the reasons that the respondent-Corporation abandoned the TAIL POOL DAM project and therefore question of giving employment does not arise. A copy of the order dated 12.12.97 passed in FMA No. 14 of 1994, has been annexed as Annexure-2 to the writ application. It appears that after availing remedy in the Calcutta High Court, petitioners have filed these two writ applications in this Court for self-same relief.

6. Be that as it may, the question regarding employment to displaced persons have been considered by the Division Bench of this Court in C.W.J.C. No. 1658/96R. The Division Bench dismissed the writ application by judgment dated 19.12.97 by making certain directions and observations.

7. In the back-ground of the aforesaid facts the question therefore falls for consideration is to whether this Court will issue mandamus directing the

respondent-Corporation to give employment to the petitioners. In view of the aforesaid facts, I am of the definite opinion that no mandamus can be issued to the respondents directing them to give employment to the petitioners whose lands said to have been acquired for the purpose of construction of TAIL POOL DAM. Admittedly, petitioners moved the Calcutta High Court and the Calcutta High Court refused to grant any relief to the petitioners. Petitioners therefore can not be allowed to re-agitate the matter again before this Court.

8. Besides the above, admittedly lands were acquired under the Land Acquisition Act for the purpose of Construction of TAIL POOL DAM. The procedure provided under the Land Acquisition Act was followed and compensation was awarded to those persons whose lands have been acquired. Although the respondents formulated the scheme for giving employment to the such displaced persons whose 75% or more lands were acquired for the said purpose. The respondent-D.V.C. has stated on affidavit that the scheme of TAIL POOL DAM has been closed. In such circumstances this Court can not issue writ in the nature of mandamus directing the respondents, particularly respondent-Corporation to give employment to the petitioners.

9. In this connection, reference may be made to decision of the Supreme Court in the case of Bitu Prasad Kumhar and Anr. v. Steel Authority of India Ltd. 1995 (2) Supp. SCC 225. Their Lordship held that when land of a person is acquired by following the procedure of the Land Acquisition Act, although resulting in displacement of land owners, it is not violating Article 21 and the State Government is not bound to provide employment to all the displaced persons, much less to provide employment or to ensure preferential treatment in employment to each adult members of displaced family.

10. Taking into consideration the entire facts and circumstances of the case, I am of the opinion that no relief can be granted to the petitioners. These writ applications are accordingly dismissed.