
(2011) 07 SHI CK 0150
In the High Court Of Himachal Pradesh
Case No : CWP No. 2505 of 2010

Jagdish Chand Sharma

APPELLANT

Vs

State of H.P. and Others

RESPONDENT

Date of Decision : 04-07-2011

Acts Referred:

Constitution of India, 1950 — Article 12

Citation : (2011) 07 SHI CK 0150

Hon'ble Judges : Deepak Gupta, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Deepak Gupta, J.—The Petitioner, by means of this petition, has basically prayed that Respondent No. 3 be directed to renew the contract entered with him for operating a bus and has further prayed that Respondents 1&2 be directed to intervene and ensure that Respondent No. 3 complies with the promises made by it in letter and spirit.

2. Brief facts of the case are that Respondent No. 3, M/s. Ambuja Cement Ltd., set up a Whether reporters of the local papers may be allowed to see the judgment? Yes cement Industry at Darlaghat. Land of various villagers including that of the Petitioner and his family was acquired. This acquisition took place in the year 1992 and at that time the Company promised to not only grant compensation to the persons whose land was acquired but also set up a rehabilitation package for them. Employment was to be provided to the descendents of the land losers. Shops in the Factory were to be allotted to "eligible persons" on merit. Further more, the Company agreed to provide a transport business to such families.

3. The grievance of the Petitioner is that in the year 2008, Respondent No. 3 entered into a contract with him hiring his bus for a period from 1.5.2008 to 31.10.2008. On 25.2.2010, the contract was cancelled which led to the filing of

the present petition.

4. The Petitioner alleges that since he is a land loser, his contract should have been renewed. In the petition, it is also alleged that though the contract with the Petitioner has been rescinded two other buses are still being plied and these buses are of persons who are not even land losers.

5. Respondent No. 3 in its reply raised a preliminary submission that the petition is not maintainable since it is a contractual matter. It has also been alleged that the Petitioner has not come to the Court with clean hands. According to the Respondents, both the Petitioner and his mother became members of the Baghal Land Losers Transport Cooperative Society Ltd. and were operating their trucks being truck Nos. HP-11-3503 and HP-11-5536. A list of members as on 15.7.2009 has also been annexed in which the name of the Petitioner finds place at Sr. No. 144 and the name of his mother Smt. Shanti Devi is also reflected in the same.

6. Further the case of Respondent No. 3 is that the total land measuring about 17 bighas belonging to the Petitioner and his brothers, sister and mother was acquired and the share of the Petitioner was only 2-16 bighas. Compensation was paid for the said land and 16 biswas of land was again given to the Petitioner for construction of a house. Therefore, according to the Respondents only for two bighas of land the Petitioner has been sufficiently compensated.

7. As far as the bus is concerned, the stand of the Respondent Company is that they did not require the bus in question and it was unnecessarily wastage of Rs. 49,000/-per month. No other bus has been hired after rescinding the contract with the Petitioner. In respect of the allegation of the Petitioner that two other buses are running it has been stated that these two contracts were entered into much before the contract with the Petitioner and therefore the Petitioner cannot claim any right over the other two persons.

8. The reply was filed in the month of July, 2010 and no rejoinder has been filed till date. While the matter was being argued Sh. Sanjeev Bhushan, learned Counsel for the Petitioner, on instructions received from the Petitioner, stated that neither the Petitioner nor the mother are plying any truck after 2003.

9. When a factual averment was made on oath by the Respondent Company, the Petitioner should have denied the same by filing an affidavit. The Respondent has filed a list of members as existing on 15.7.2009 in which the names of the Petitioner and his mother find mentioned. No explanation has been given as to why their names were not deleted from the list of members.

10. I am extremely doubtful whether a writ petition in such a matter would lie against Respondent No. 3 which is not a State within the meaning of Article 12 of the Constitution of India. However, without going into this aspect of the matter it is more than apparent that the Petitioner is not entitled to any relief. He withheld material facts from this Court and did not make any mention about the fact that

he and his mother were operating trucks at least till the year 2003. In fact, the tenor of the petition is as if the Petitioner has not been given any benefit of rehabilitation. Virtually only two bighas of land of the Petitioner was acquired. He has been paid compensation for the same and was permitted to ply a truck. He can still ply the truck if he so desires. He however cannot insist that his bus alone should be hired by the Company. It is for the Company to decide whose services it has to hire and this is a purely contractual matter not falling within the writ jurisdiction of this Court.

11. In view of the above discussion, I find no merit in the petition which is dismissed. No costs.