

(2005) 08 JH CK 0072

In the Jharkhand High Court

Case No : Writ Petition (C) No. 4588 of 2001

Jyotsna Mayee Tiwary and Others

APPELLANT

Vs

Coal India Limited and Others

RESPONDENT

Date of Decision : 01-08-2005

Acts Referred:

Citation : (2005) 3 BLJR 1994 : (2005) 4 JCR 286

Hon'ble Judges : S.J. Mukhopadhaya, J

Bench : Single Bench

Advocate : Bijay Kumar Pandey, for the Appellant; B.M. Prasad and V. Gopal, for the Respondent

Final Decision : Dismissed

Judgement

S.J. Mukhopadhaya, J.—This writ petition was originally filed by petitioner, namely, Hari Prasad Tiwary, now substituted by this legal heirs namely, (a) Jyotsna Mayee Tiwary (Widow), (b) Narsingha Prasad Tiwary (son) and (c) Ram Dullal Tiwary (son). In the writ petition prayer was made for a direction on the respondents to give employment to the near relatives in terms with the policy decision of the respondents, as was circulated by 3rd respondent, General Manager (L.R. & S) Santoria, Disergarh, District Burdwan (West Bengal).

2. According to the petitioners they are the resident of Paharpur, P.S. Afzalpur district Dumka now Jamtara (Jharkhand) and they are the owner of the land under Jamabandi Nos. 211 and 5 of Mauza Nawadih Beldanga. The case of the petitioners is that 1st respondent in order to exploit the coal in Santhal Pargana decided to reach an agreement with the rightful owner of the land for certain excavation. By their policy decision as circulated vide Memo No. 6, dated 26th December, 1989 the Managing Director (L.R. & S), Eastern Coal India Ltd. Burdwan (West Bengal) communicated the following guidelines :--

"The land for Kasta Area required at Nawadih and other Mouzas for mining purpose have to be acquired under the following guidelines :--

1. As because the land in old Santhal Pargana/Dumka District where Kasta Area falls, are not transferable by way of sale, purchase, etc., in order to get the rightful owner of the land, at the present moment, a genealogical chart of the family should be prepared and actual rightful owner's name and other details have to be obtained first.

2. The Area should file immediately I.A. Proposals. The rightful owner so established, if wishes to transfer his/her/their land in favour of Kasta Area, should enter into an agreement/ a bond of non-judicial paper to be duly registered laying down therein that they have agreed their land to be acquired through L.A. process by the respective State Govt. on payment of requisite rate of compensation prevalent in the State.

3. The land owner will accept an advance at the rate of Rs. 5,000/- (Rupees Five thousand) only per acre of land and give physical possession of the land to the Company authorising to carry out mining operations and that they will get the balance payment from the State Govt. at that time they will return this advance amount and/or will adjust this amount from their total bill of compensation for the land.

4. After entering into such agreement with the Company and after giving its possession, the land owner will be entitled to claim employment at the rate of one employment per two acres of land subject to the following norms :--

(a) The land owner will file claim of employment in prescribed proforma only after giving physical possession of the land to the Company. The employment may be for self or near dependent of land owner and he should not be of more than 35 years of age.

(b) The land should be in legal possession and ownership of the owner for more than 5 years.

(c) There will not be more than one employment in a family as mentioned above, if the land is (sic).

(d) The candidate for the employment should be found medically fit for appointment."

3. Further case of the petitioners is that in view of such offer given by the respondents, the original petitioner approached and executed a deed of agreement/licence on 19th June, 1989. In terms of the said agreement the original petitioner was to receive a sum of Rs. 10,000/- (Ten Thousand) per acre and in addition to that one employment for every two acres of land.

4. The grievance of the petitioner is that though such agreement was executed on 19th June, 1989 and thereafter the original writ petitioner gave possession of the land to the respondents and the respondents also started excavating coal from the land but out of list of nine persons submitted by the original petitioner, the respondents have given employment to only five persons.

5. The learned counsel for the petitioners submitted that three other persons were also given employment against the land of the original petitioner, but when it was brought to the notice of the authority that they were fake persons, their appointments have been cancelled but in place of those three persons more nominees of the original petitioner have not been given employment.

6. A joint vague counter affidavit has been filed on behalf of the 2nd, 3rd and 4th, respondents, in which they have raised the question relating to execution of agreement/licence, but the fact that they have taken over the possession of the lands of the original petitioner and they are using 18 Acres of lands of the original petitioner has not been disputed.

7. It appears that the matter was placed before the Chairman-cum-Managing Director, Eastern Coalfields Limited, who vide Memo No. 2276, dated 25th January, 1994/1st February, 1994 intimated one Ajit Kumar Mukherjee, General Secretary, Indian National Rural Labour Federation, Burdwan (West Bengal) that the proposal of the original petitioner was dealt as a package deal and after proper scrutiny and verification of the cases competent authority approved employment of five persons in 1990. It further appears that the original petitioner had also submitted one cancellation affidavit canceling his earlier nominations on 2nd July, 1990 and name of three persons i.e. S/Sri Amarjeet Chatterjee, Sevak Ram and Arun Mukherjee were referred for their employment but it was not accepted as those three persons are not the land looser not they had any relationship with the original petitioner.

8. In the present case the petitioner has not mentioned as to why the original petitioner gave the names of aforesaid three persons, who were not related to him. However, according to the counsel for the petitioners those names were not provided by the original petitioner but by some other persons.

9. In the facts and circumstances of the case while this Court is not inclined to decide the claim on merit to determine as to who are the rest of the persons to be appointed as per the scheme, eighteen acres land of the petitioner having been taken over by the respondents, gives liberty to the petitioners to provide three more names, who are related to the family of original petitioner and come within the definition of land looser to the Chairman-cum-Managing Director, Eastern Coalfields Ltd. for their appointment. If any such list is provided by the petitioners showing the relationship with the landlord original petitioner, the Chairman-cum-Managing Director, Eastern Coalfields Ltd, Sanatoria, Disergarh, Burdwan (West Bengal) will reconsider those names for their appointment as per land looser scheme mentioned and referred above within a period of three months from the date of receipt of such list. If any adverse decision is taken then he will communicate the ground(s) to the petitioners within the aforesaid period.

10. If the period of agreement/licence has expired, the Chairman-cum-Managing Director, Eastern Coalfields Ltd. may request the petitioner to extend the period of agreement/licence for atleast another fifteen years.

11. The writ petition stands disposed with the aforesaid observation and direction. However, in the facts and circumstances of the case there will no order as to cost.