
(2001) 02 MP CK 0031
In the Madhya Pradesh High Court
Case No : Writ Petition No.1481/97

Kedar Singh

APPELLANT

Vs

State of M.P. and others

RESPONDENT

Date of Decision : 14-02-2001

Acts Referred:

Citation : (2001) 2 MPHT 326 : (2001) 2 MPLJ 69

Hon'ble Judges : Shravan Shanker Jha, J

Bench : Single Bench

Advocate : Shri S.K. Jain, for the Appellant; Shri K.N. Gupta, Government Advocate, for the Respondent

Final Decision : Dismissed

Judgement

S.S. Jha, J.

Petitioner is aggrieved by the order passed by the Commissioner, Chambal Division, in suo motu Revision No. 579/95-96, decided on 30-1-1997 and the order of the State Government in Revision No. 1-62/97/Revision, decided on 17-6-1997.

Petitioner has applied for allotment of a land under the provisions of Revenue Book Circular. Petitioner in his application has mentioned that the land is recorded as "Kadeem". Petitioner is cultivating the land, therefore, lease of the land should be granted in his favour. After Notification, the Patwari entered the witness box and deposed that the land is recorded as "Beehad". On the finding that the land is recorded as "Beehad" Tehsildar, Morena directed grant of lease of the land in favour of petitioner, holding therein that for allotment of "Beehad" land, there is no reservation for any caste. The applicant should not possess more than 12 hectare land after the allotment; the petitioner falls in that category. "Beehad" is less than two meters deep. Therefore, "Beehad" land bearing survey No. 1058 having an area of 1.965 hectare was allotted in favour of petitioner.

Revenue Book Circular, Part Four Chapter 3-A is introduced for allotment of "Beehad" land. "Beehad" land is allotted to those persons whose agricultural lands are adjacent to "Beehad". If the "Beehad" land is not adjacent to agricultural land then it can be allotted to member of Scheduled Castes, Scheduled Tribes, ex-soldier and to any person who has financial capacity for erecting dam and to control erosion of soil. It also provides that if the land is allotted to the person, other than member of Scheduled Castes or Scheduled Tribes, he shall pay premium at the rate of Rs. 1000/- per hectare and the lease shall be executed after the amount of premium is paid.

Counsel for petitioner submitted that the order of allotment was passed on 18-7-1995, therefore, the Commissioner had no jurisdiction to exercise the powers of suo motu revision. It was further contended by the counsel for petitioner that the power of suo motu revision cannot be exercised after a period of two years. Counsel for petitioner submitted that the orders Annexures P-1 and P-2 are without jurisdiction and should be quashed.

Record of the case pertaining to allotment of land was called and is perused.

Counsel for respondents submitted that a public interest litigation petition was filed before this Court which was registered as Writ Petition No. 1384/1996, wherein some directions were given by this Court to the Commissioner, Chambal Division, to enquire into allotment of land. The enquiry was conducted by the Commissioner. The Commissioner has submitted the enquiry report stating that allotments were not proper and have been cancelled.

The enquiry report which was submitted before the Court is dated 12-9-1997. In the enquiry report, allotment of survey No. 1058 which is recorded as "Beehad" has been found to be improper. Copy of the report was submitted before this Court. The enquiry report submitted before this Court clearly demonstrates that the enquiry was conducted by Shri J.K. Sharma, the then Commissioner, Chambal Division pertaining to allotment and after enquiry, powers of suo motu revision were exercised.

Contention of the petitioner that the Commissioner had no jurisdiction to exercise power of suo motu revision has no force. In Chapter 3-A of Part IX it is mentioned that for the purpose of appeal and revision, provisions of Part IV Chapter 3 shall be applicable. Chapter 3 (1) of Part IV Para 3 of Revenue Book Circular provides that only one appeal shall lie against the order of allotment. Where the land is allotted by Tehsildar or Naib Tehsildar appeal shall lie to Sub-Divisional Officer and where the allotment officer is Collector then the appeal shall lie before the Commissioner. Sub-para 2 of this para provides that any original order of allotment or appellate order decided by the Collector shall be examined in suo motu revision or on an application before the Divisional Commissioner. However, if no appeal is filed under sub-para (1) of Para 31, then no application for revision shall lie by a person. Thus only one revision is provided and from bare perusal of sub-para (2), it is clear that any order of

allotment can be examined in suo motu revision. The rule is specific and clear and words ^ewy vkcaVu** clearly disclose that any initial order of allotment can be examined in suo motu revision by the Commissioner.

The Commissioner has found following irregularities in allotment :--

(i) The land was recorded as "Beehad" but the land was not allotted under the provisions of Part IV-3-A of Revenue Book Circular; and the land was allotted as general land;

(ii) Procedure laid down and the manner of allotment of "Beehad" land has not been followed; and

(iii) No enquiry was conducted whether the petitioner was landless person and no spot inspection was carried out.

Show-cause notice was issued to the petitioner. Petitioner filed reply to the show-cause notice. Petitioner was heard and the allotment was cancelled. Petitioner preferred a revision before the State Government. The State Government has affirmed the order passed by the Collector.

On perusal of provisions of allotment of "Beehad" lands, it is clear that the land can be allotted to the person if his agricultural land is adjoining to "Beehad", Those "Beehad" shall be chosen for allotment which are protected by the scheme of saving erosion of soil, whose depth is not more than two meters. Secondly, if the agricultural land is not adjacent in order of preference, the land can be allotted to member of Scheduled Castes, Scheduled Tribes then to ex-soldier, and if none of these categories is available, then the land shall be allotted to a person who has financial capacity to erect dam and protect flow of water to save the land. It is also provided that if the allotment is not to a member of Scheduled Castes or Scheduled Tribes, then the person in whose favour allotment is made shall be liable to pay premium at the rate of Rs. 1000/-per hectare.

No premium was charged from the petitioner. No finding is recorded that petitioner's agricultural land is adjacent to "Beehad". In the absence of proper enquiry, no infirmity is committed by the Commissioner and the State Government in cancelling the allotment. Even otherwise, cancellation has been done after the enquiry as directed by this Court.

In the result, the petition has no merit and is dismissed without any order as to costs.

However, if the petitioner feels that he is eligible to get allotment, he shall apply afresh and that application shall be decided by the Authority strictly in accordance with the provisions of Chapter 3-A of Part IV of Revenue Book Circular.

Writ Petition dismissed.