

(2019) 08 GUJ CK 0053

In the Gujarat High Court

Case No : R/Special Civil Application No. 14053 Of 2019

K.R. Sea Foods Private Limited

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 20-08-2019

Acts Referred:

Constitution Of India, 1950 — Article 14, 226, 227

Citation : (2019) 08 GUJ CK 0053

Hon'ble Judges : A.J. Desai, J

Bench : Single Bench

Advocate : Anshin Desai, Venu H Nanavaty, K.M. Antani

Final Decision : Disposed Of

Judgement

A.J. Desai, J

1. By way of the present petition under Articles 14, 226 and 227 of the Constitution of India, the petitioner has prayed as under:

"17(A) Your Lordships may be pleased to admit and allow this petition;

(B) Your Lordships may be pleased to issue a writ of certiorari or a writ in the nature of certiorari or any other appropriate writ, order or direction by quashing and setting aside the impugned orders at:

(i) Annexure-A dated 25.04.2019 passed in Revision Application No. MVV/JMN/PRB/3/2019 passed by the respondent no. 2-Special Secretary, Revenue Department in the interest of justice;

(ii) Annexure-B dated 26.12.2018 passed by the respondent no. 3-Collector, Porbandar in the interest of justice;

(C) Your Lordships may be pleased to issue a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ, order or direction, directing the respondents and mainly respondent (no. 3) to grant the lease of land bearing

S. No. 108 paiki admeasuring Hectare 100-00-00 situated at Village: Chikasa, District: Porbandar on lease for the purpose of prawn farming as per the Government Resolution dtd.3.10.2007 and on such reasonable terms and conditions which may be deemed fit, just and proper in the interest of justice.

(D) Pending admission, hearing and final disposal of this petition, Your Lordships may be pleased to stay the implementation, execution and operation of the impugned orders at:

(i) Annexure-A dated 25.04.2019 passed in Revision Application No. MVV/JMN/PRB/3/2019 passed by the respondent no. 2-Special Secretary, Revenue Department in the interest of justice;

(ii) Annexure-B dated 26.12.2018 passed by the respondent no. 3-Collector, Porbandar in the interest of justice;"

2. It is the case of the petitioner that an application was made by the petitioner to grant a parcel of land in Porbandar District for the purpose of prawn farming. Several authorities have opined in favour of the petitioner and the land demanded by the petitioner was also reserved by District Collector for carrying out prawn farming. Though an application was submitted by the petitioner way back in the year 2011, District Collector has recently rejected the same in the year 2018 relying upon new policy dated 03/10/2018 only. Hence, this petition.

3. Mr. Anshin Desai, learned advocate appearing with Ms. Venu Nanavaty, learned advocate appearing on behalf of the petitioner would submit that in similar cases, the land was granted for the same purpose in different areas of State of Gujarat, on the basis of the government resolution dated 03/10/2007. He would further submit that the District Collector did not process the application for considerable long time and the petitioner is not at fault for the same. He would further submit that the petitioner has also invested for hatchery since the land was reserved for prawn farming. He would further submit that the Collector has relied upon the new policy, which is made applicable in the month of October, 2018 only and rejected the application in the year 2018. Therefore, the petitioner approached the Secretary, Revenue Department (Appeal) to consider his case as per old policy dated 03/10/2007, which is rejected by the Appellate Authority. He has also relied upon the decision rendered in the case of Lalaram v. Jaipur Development Authority reported in (2016) 11 SCC 31 and would submit that the authority may consider the same.

4. On the other hand, Mr. K.M. Antani, learned Assistant Government Pleader appearing for the respondents has opposed this petition and submitted that the petitioner is not entitled for the land as per new policy and therefore the state authorities have rightly rejected the application made by the petitioner. He would further submit that there is no substance in this petition and therefore, the same may be dismissed.

5. I have heard learned advocates appearing for the respective parties. It is an

undisputed fact that the application was made by the petitioner way back in the year 2011 and several opinions have been issued in favour of the petitioner. In the year 2016, the land which was demanded by the petitioner, was reserved by the Collector for prawn farming. It appears that there is a delay in deciding the application at the fault of the State authorities. It appears from the record that that several similar cases have been considered by the State authority in various areas of the State of Gujarat.

6. Considering the peculiar facts and circumstances of the case, in my opinion, following order would meet the interest of justice:

"The petitioner shall make an application/representation to the Secretary, Revenue Department, State of Gujarat within a period of two weeks. If such application is made, the same shall be decided by the authority in accordance with law, as expeditiously as possible and preferably within a period of four months thereafter and without being influenced by the impugned orders at Annexure - A and Annexure - B and after giving an opportunity of hearing to the petitioner. The authority shall also consider the aforesaid decision rendered in the case of Lalaram (supra) relied upon by the learned advocate appearing for the petitioner. It is open for the petitioner to raise all the contentions raised in the present petition before the authority."

7. With the above observations, the present petition is disposed of. Direct service is permitted.