

(2014) 11 JH CK 0054
In the Jharkhand High Court
Case No : W.P.(S) No. 2688 of 2006

Lalan Ray

APPELLANT

Vs

The Chairman cum Managing Director, B.C.C.L. and Others

RESPONDENT

Date of Decision : 10-11-2014

Acts Referred:

Citation : (2014) 11 JH CK 0054

Hon'ble Judges : Sujit Narayan Prasad, J

Bench : Single Bench

Advocate : Milan Kumar Dey, Sr. Advocate and Leena Mukherjee, Advocates for the Appellant; Ananda Sen, Advocates for the Respondent

Judgement

Sujit Narayan Prasad, J.—The petitioner being aggrieved with the order dated 26.9.1997 by which he has been dismissed from service, has preferred this writ petition.

2. The brief facts of this case as pointed out by the counsel for the petitioner is that, the petitioner is one of the co-sharers of the land which was acquired at Mouza Bhutgaria, Pargana Jharia, Revenue Thana No. 134, District Dhanbad by M/s. Bharat Coking Coal Limited and thereafter, the respondent-M/s. Bharat Coking Coal Limited started using the said land for the mining purpose. It has been pointed out that after acquisition of the land, in pursuance to an agreement, the petitioner being co-sharer of land, had been provided appointment against the share of one Smt. Birla Devi who was issueless at that time and since the entire land of the petitioner has been acquired, hence the petitioner was provided appointment on the basis of the acquisition of the land by M/s. Bharat Coking Coal Limited. It has been further pointed out that after providing appointment although the petitioner had started discharging his duty, all of a sudden, one complaint has been made by Smt. Birla Devi before the Chief Judicial Magistrate, Dhanbad against the petitioner, and on the basis of the complaint the petitioner has been dismissed from service vide order dated 26.09.1997. After the institution of the said complaint, the Chief Judicial

Magistrate, Dhanbad, referred the said complaint before the police for conducting an inquiry. The police after investigating case submitted final report, which was accepted by the Chief Judicial Magistrate, Dhanbad on 9.12.1999, as such it is argued on behalf of the petitioner that since the complaint itself was found incorrect by the police and as such the ground taken in the impugned order dated 26.11.1997 is non est and as such the dismissal from service is absolutely incorrect. On this ground the impugned order has been assailed.

3. On the other hand counsel appearing for the respondent-M/s. Bharat Coking Coal Limited has submitted that the appointment was provided to the petitioner in the capacity of nephew of Smt. Birla Devi and on the basis of complaint of Smt. Birla Devi, the appointment of the petitioner has been cancelled by the impugned order, however, he has fairly submitted that after institution of the complaint, the police gave final form which has been accepted vide order dated 9.12.1999, against which no protest has been filed by Smt. Birla Devi.

4. Heard the parties.

5. It is a fact that the petitioner has been appointed in lieu of the land acquired by the respondent- M/s. Bharat Coking Coal Limited and the petitioner accordingly started discharging his duty and on the sole ground, i.e. the basis of the complaint made by Smt. Birla Devi, the impugned order has been passed by which the petitioner's appointment has been cancelled and after inquiry the said complaint has been found untrue by the police and the final report was submitted by the police which has been accepted by the Court, against which no protest preferred.

6. Since it is a case of appointment on the basis of the land of the petitioner having been acquired by M/s. Bharat Coking Coal Limited, provided in lieu of land acquired by respondents which is being used by M/s. Bharat Coking Coal Limited for the mining purposes, thus sole source of livelihood has been taken away, and as such will lead to starvation to the petitioner and dependent. However, the sole ground taken by the respondents has become non est after submission of final Form.

7. In the nature of the facts and circumstances and considering the facts stated hereinabove, the impugned order dated 26.11.1997 is not sustainable and is hereby set aside.

8. In view of the facts and circumstances, since the land of the petitioner was acquired by M/s. Bharat Coking Coal Limited and in lieu thereof the petitioner had been provided appointment which later on had been cancelled, the authorities concerned are directed to take a fresh decision considering the representation to be made by the petitioner looking into all the points to be agitated by the petitioner and also after hearing complainant Smt. Birla Devi in accordance with law within a reasonable period preferably within three months from the date of receipt of copy of this order and communicate the same to the petitioner within four weeks thereafter.

9. With this direction, this writ petition is disposed of.