
(1978) 09 RAJ CK 0015
In the Rajasthan High Court
Case No : Civil Writ Petition No. 161 of 1973

Leeladhar

APPELLANT

Vs

The State of Rajasthan and Others

RESPONDENT

Date of Decision : 01-09-1978

Acts Referred:

Citation : (1978) WLN 289

Hon'ble Judges : S.C. Agrawal, J

Bench : Single Bench

Final Decision : Allowed

Judgement

S.C. Agrawal, J.—This is petition for the issue of a writ of certiorari to quash the order dated 6th October, 1969, passed by the Collector, Ganganagar and the orders dated December 20, 1971 and January 12, 1973, passed by the State Government. The facts briefly stated, are as under.

2. On February 15, 1968, the Collector Ganganagar, issued a notice whereby it was notified that those cultivators of land in Bhakra Project who have less than 12 bighas of canal irrigated land could apply for allotment of additional land in the same village so as to enable them to have 15 bighas of such land. The applications for allotment of land were required to be submitted to the Revenue Tehsildar concerned in the prescribed form by the 15th March, 1968. In pursuance of the aforesaid notice, the petitioner, who was in possession of less than 15 bighas of land, submitted an application for allotment of additional land. On the said application of the petitioner, the Tehsildar, Suratgarh, on 14th May, 1968, submitted a report to the Collector, wherein he recommended that 104 bighas of land be allotted to the petitioner to make up the 15 bighas of land to which the petitioner was entitled. On the basis of the aforesaid report of Tehsildar, the Collector, by his order dated May 24, 1969, allotted 8 bighas, 3 biswas of land to the petitioner at the rate of Rs. 500/- per bigha. In pursuance of the aforesaid order of allotment, the petitioner deposited the sum of Rs. 2037.50 in full on May 28, 1969 and the possession of the land was delivered to the

petitioner on June 1, 1969

3. An allotment of 19 bighas, 15 biswas of land in Chak No. 1 L.L.P. had been made in favour of respondent No 4 In connection with the handing of actual possession of the allotted land to respondent No. 4. Tehsildar, Suratgarh, on 22nd April, 1969, submitted a report that the land allotted to respondent No 4 was now being irrigated by canal water and, therefore, respondent No. 4 was entitled to allotment of only 11 bighas, 12 biswas of canal irrigated land. The aforesaid proposal of the Tehsildar, Suratgarh was approved by the Collector, Ganganagar, by his order dated May 31, 1969 and the area of land allotted to respondent No. 4 was reduced from 19 bighas, 15 biswas to 11 bighas, 12 biswas Respondent No. 4 filed a petition before the Collector, for review of the order dated 31st May 1969 and the said review petition was disposed of by the Collector, Ganganagar, by his order dated October 6, 1969, whereby the Collector, while affirming his earlier order confining the allotment of land in favour of respondent No. 4 to 11 bighas and 12 biswas only, cancelled the allotment of land in favour of the petitioner. Aggrieved by the aforesaid order of the Collector, Ganganagar, dated October 6, 1969, the petitioner filed a revision petition before the State Government and the said revision petition was dismissed by order of the State Government dated December 20, 1971. The petition for review of the said order filed by the petitioner was also rejected by the State Government by order dated January 12, 1973. This writ petition has been filed for quashing of the after said orders of these State Government as well as the order of the Collector, Ganganagar dated October 6, 1969.

4. The counsel for the petitioner has submitted that the Collector had cancelled the allotment in favour of the petition on the erroneous assumption that possession of the land which was allotted to the petitioner had earlier been delivered to Respondent No. 4 and, therefore, the said land could not be allotted to the petitioner. The learned Counsel has also submitted that while dealing with the revision petition of the petitioner, the State Government had also proceeded on the same erroneous assumption and further that the State Government had misconceived the matter in issue in the case and had wrongly proceeded on the basis that the matter in issue was whether the petitioner could claim a right to be allotted land in preference to respondent No. 4. It is urged that the State Government failed to notice that in so far as respondent No. 4 was concerned, the allotment in his favour had been restricted to 11 bighas and 12 biswas only and he had no right in the additional land which had been allotted to the petitioner and that there was no question of respondent No 4 claiming any preference over the petitioner in the matter of allotment of this land.

5. I am in agreement with the aforesaid contentions of the learned Counsel for the petitioner. I find that in so far as the respondent No 4 is concerned, he has no right what so ever in the land which had been allotted to the petitioner in as much as the Collector, by his order dated May 31, 1969 had reduced the area of the land allotted to him from 19 bighas, 15 biswas to 11 bighas, 12 biswas only

and the aforesaid order of the Collector was reaffirmed by him in his subsequent order dated October 6, 1969 also and the said order has become final. Thereafter, the question that arose for consideration before the State Government in the revision petition of the petitioner was as to whether the Collector was justified in cancelling the allotment of the land in favour the petitioner even though the said land had ceased to be allotted to respondent No. 4 and petitioner, after depositing the requisite amount of money, had also obtained permission of the same on June I, 1968 Respondent No. 4 could not have any say what so ever in the determination of this question. The State Government, while dealing with the revision petition of the petitioner has thus clearly misconceived the matter in issue which had to be determined by it and this error vitiates both the orders of the State Government.

6. The writ petition is, therefore, allowed and the orders of the State Government dated December 20, 1971 and January 12, 1973 are quashed. It is directed that the State Government will dispose of the revision petition of the petitioner in accordance with the law. No order as to costs.