
(2011) 03 JH CK 0060
In the Jharkhand High Court
Case No : W.P.C. No. 1081 of 2009

Mahendra Ram

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 10-03-2011

Acts Referred:

Citation : (2011) 2 JCR 351 : (2011) 6 RCR(Civil) 2165

Hon'ble Judges : R.K. Merathia, J

Bench : Single Bench

Judgement

R.K. Merathia, J.—Heard the parties finally.

2. Mr. Anwar, learned senior counsel appearing for the Petitioner submitted that the settlement in question in favour of Respondent No. 9, Hazaribagh Matasyajivi Cooperative Society Limited, has been done on 23/06/2008 in violation of the circular dated 18/01/1992 (Annexure6/A) as the open auction was to be held in presence of the specified officers but the settlement was done by District Fishery Officer only. He further submitted that the date for open bid was fixed on 24/06/2008 at 1.00 p.m., but the tanks were settled on 23/06/2008 itself, ignoring the adverse report against Respondent No. 9 dated 20/06/2008, given by the District Cooperative Officer after making enquiry (Annexure3). He further submitted that as per Clause7 of the circular dated 01/08/1996 (Annexure5), the Cooperative Society cannot give their settlements to any other person but in the present case from the said enquiry it will appear that Respondent No. 9 is only a name lender in the hands of the maphia and after taking settlement, it was given to different persons, who were not entitled to get it such as a Government Teacher, a Government Amin etc. He further submitted that about 28 tanks were settled with Respondent No. 9 for a meager amount of Rs. 38,300/.

3. On the other hand, Mr. Verma, learned Counsel for the State and Mr. Saurav Arun, learned Counsel appearing for Respondent No. 9, submitted that from Clause10 of the notice of settlement issued on 09/06/2008 (Annexure2), it will appear that if the settlement is given to a cooperative society, the open bid will

not be held and as the tanks were settled to Respondent No. 9, which is a Cooperative Society, there was no requirement of holding open bid in presence of the officers as per the circular dated 18/01/1992. They further submitted that on 23/06/2008 itself, the Petitioner was also granted settlement for several tanks in similar manner. The enquiry report of the Assistant Registrar, Cooperative Society dated 16/05/2008 (Annexure C to the counter affidavit of Respondent No. 9) was referred and it was submitted that the allegations made by the Petitioner were inquired and were not found correct and, therefore, the subsequent report dated 20/06/2008, given by a subordinate Officer on the allegations made by the Petitioner should not be relied.

4. It appears from Clause 10 of the bid notice that if the tanks were settled with a Cooperative Society, open bid was not to be held. It further appears that the settlement was done on 23/06/2008 in favour of Respondent No. 9 as well as the Petitioner in similar manner. It further appears that the time of the settlement in question is going to expire shortly, i.e. on 31st March, 2011. In the circumstances, I am not inclined to interfere in this writ petition.

5. However, it appears that there are allegations and counter allegations between the Petitioner and Respondent No. 9 with regard to their genuineness and/or working. It further appears that there are contradictory reports with regard to working of Respondent No. 9, one by District Cooperative Officer and other by the Assistant Registrar, Cooperatives.

6. Accordingly, the Petitioner and Respondent No. 9, will be at liberty to make complaints against working of each other before the Secretary, Cooperative Department, Government of Jharkhand, Ranchi, who will refer the matter to the Vigilance Department of the State Government for inquiring into the allegations. In that event, the parties will cooperate in such enquiry.

7. However, pendency of such enquiry will not stand in the way of the concerned Respondent in settling the tanks for the year 2011 onwards.

8. It goes without saying that the settlement of tanks will be done strictly in accordance with law, and keeping in view that it fetches maximum revenue.

9. With these observations and directions, this writ petition stands disposed of.