
(2000) 08 RAJ CK 0066
In the Rajasthan High Court
Case No : Civil Writ Petition No. 2922 of 2000

Mohd. Hussain

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 25-08-2000

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2000) 4 RLW 533 : (2000) 4 WLC 604 : (2001) 1 WLN 308

Hon'ble Judges : B.J. Shethna, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

B.J. Shethna, J.—The petitioner Mohd. Hussain has applied for allotment of small patch of land before the S.D.O., Suratgarh-respondent No. 4. His application was granted and the order of allotment of land was passed by S.D.O., Suratgarh in favour of the petitioner on 4.1.1995 and he was ordered to deposit Rs. 11,742/- which he deposited on the same day in treasury. However, immediately after passing of the order of allotment, the S.D.O., Suratgarh realised that the land in question which was allotted to the petitioner was falling in the category of "special allotment", therefore, it could not have been allotted as small patch of land. Therefore, on that very day i.e. on 4.1.1995, he passed on order of cancellation of allotment Annex. 3 and ordered that if the petitioner had deposited the said amount, the same shall be refunded to him. Aggrieved of this order, the petitioner filed an appeal before the Revenue Appellate Authority but the same was dismissed vide order dated 1.9.1995 (Annex. 4) on the ground that the land does not fall in the category of small patch and it was reserved for special allotment, therefore, the order of cancellation was rightly passed. The same was further challenged by the petitioner before the Board of Revenue by way of revision petition which was also dismissed on 31.5.2000 (Annex. 5).

2. Aggrieved of these orders at Annexs. 3, 4 and 5, the petitioner has filed this petition before this Court under Articles 226 and 227 of the Constitution.

3. Learned Counsel Mr. Gupta for the petitioner raised only one submission that after passing an order of allotment of land in favour of the petitioner, it was not open to the S.D.O. to review his own order and cancel the same without affording any opportunity of hearing to the petitioner. At a first look, this submission looks to be attractive but on a close scrutiny, it is found to be without any substance. It is true that from the impugned order of cancellation of allotment at Annex. 3, it nowhere appears that the petitioner was heard before passing the order of cancellation of allotment of land. However, from the impugned order at Annex. 3, it clearly appears that the land in question which was earlier allotted to the petitioner was in the category of "Special Allotment", therefore, it could not have been allotted as a small patch of land. As soon as it had come to the notice of the S.D.O. that he could not have allotted land in favour of the petitioner, therefore, immediately after passing the order of allotment of the said land, he cancelled the same on that very day. It may be stated that learned Counsel Mr. Gupta was not in a position to controvert the statement made in the impugned order passed by the S.D.O. that the land in question was in the category of "Special Allotment". In that view of the matter, giving a notice to the petitioner before cancelling the allotment on the ground that the land was in the category of "Special Allotment", therefore, it could not be allotted, would be an exercise in futility. Thus, in my considered opinion atleast in such type of cases, the principle of natural justice cannot be invoked.

4. Before parting, it must be stated that in the appeal before the Revenue Appellate Authority and in revision filed before the Board of Revenue, the very grievance was raised before this Court namely, that without affording any opportunity of hearing to the petitioner, the allotment was cancelled and the same was repelled by the Courts below on the ground that the land was in the category of special allotment, therefore, it could not have been allotted. When the fact is not in dispute that it was for special allotment, then in my considered opinion, no error was committed by the S.D.O. in cancelling his earlier order of allotment by later part of the impugned order at Annex. 3. In fact, from the order passed by the Board of Revenue at Annex. 5, it appears that the order of cancellation was passed in the presence of the petitioner and the petitioner was very much in know of it.

5. In view of the above discussion, I do not find any substance or merits in this petition. Accordingly, it fails and is dismissed.

6. Stay petition is also dismissed.