

(2019) 10 JH CK 0034

In the Jharkhand High Court

Case No : Writ Petition (c) No. 3021 Of 2019

Niwaran Prasad Mahto

APPELLANT

Vs

State Of Jharkhand And Ors

RESPONDENT

Date of Decision : 14-10-2019

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2019) 10 JH CK 0034

Hon'ble Judges : Sujit Narayan Prasad, J

Bench : Single Bench

Advocate : Ramit Satender, Akash Bhushan, Vijay Kant Dubey

Final Decision : Dismissed

Judgement

1. This writ petition is under Article 226 of the Constitution of India whereby and whereunder the petitioner has sought for a direction to allot land for rehabilitation of displaced petitioner's family in lieu of acquisition of lands for Bokaro Steel Limited at Bokaro.

2. The brief facts of the case of the petitioner as per the pleadings made in the writ petition is that the State Government has initiated an acquisition proceeding sometime in the year 1962-63 in which lands belonging to the descendants of the petitioner have been acquired upon payment of compensation to the descendant namely Bhakru Mahto.

The petitioner, being the legal heir of the original awardee, has approached to this Court by way of present writ petition seeking a direction upon the respondent State as also the Bokaro Steel Limited to provide a piece of land in lieu of acquisition made by the State Government for its onward transfer in favour of the Bokaro Steel Limited as the respondents failed to pay heed to his request made by filing the representation, the present writ petition has been filed.

3. Mr. Akash Bhushan, learned A.C. to Sr. S.C.-I appearing for the State as also Mr. Vijay Kant Dubey, learned counsel appearing for the Bokaro Steel Limited

have vehemently submitted that the petitioner has not come out with any scheme showing his right for allotment of land in lieu of acquisition as also that the acquisition has been made sometime in the year 1962-63 but after lapse of about 50 years the present writ petition has been filed, therefore, on the ground of delay and laches the present writ petition is not fit to be maintainable.

4. This Court, after having heard the learned counsel for the parties and taking into consideration the submission made on their behalf as also after going through the pleadings made in the writ petition, is of the view that the land has been acquired sometime in the year 1962-63 under the provision of Land Acquisition Act, 1984 and for that purpose a regular land acquisition proceeding was initiated being L.A. Case No. 39/62-63 which ultimately has concluded by coming out with an award made in favour of one Bhakru Mahto, grandfather of the petitioner.

5. The original awardee has accepted the amount of compensation as also the possession has been taken by the Bokaro Steel Limited way back in the year 1970 immediately after preparation of the award. The petitioner being the grandson of the original awardee, has tried to impress upon this Court by showing some representations filed before the respondent authorities for providing a piece of land by way of rehabilitation in lieu of acquisition of the land as would appear from Annexure-4 annexed to the writ petition.

6. Mr. Ramit Satender, learned counsel appearing for the petitioner by refuting the arguments made on behalf of the learned counsel for the respondents pertaining to the issue relating to the delay and laches has submitted that since the petitioner is approaching before the authorities by making representations before them, therefore, it cannot be said that this writ petition is barred by delay and laches.

7. This Court, after having heard the submissions, is of the view that merely filing representations cannot be a ground for condoning the delay and laches as has been held by Hon'ble Apex Court in the case of C.Jacob Vs. Director of Geology & Mining & Another reported in (2008) 2 SCC (L&S) 961. Reliance is also being made in the judgment rendered by Hon'ble Apex court in the case of P.S. Sadasivaswamy Vs. State of Tamil Nadu reported in (1975) 1 SCC 152 wherein at para 2 their Lordships have held that -

"2. The main grievance of the appellant is that the 2nd respondent who was junior to him as Assistant Engineer was promoted as Divisional Engineer in 1957 by relaxing the relevant rules regarding the length of service necessary for promotion as Divisional Engineer and that his claim for a similar relaxation was not considered at that time. The learned Judge of the Madras High Court who heard the writ petition was of the view that the relaxation of the rules in favour of the 2nd respondent without considering the appellant's case was arbitrary. In view of the statement on behalf of the Government that such relaxation was given only in the case of overseas scholars, which statement was not

controverted, it is not possible to agree with the view of the learned Judge. Be that as it may, if the appellant was aggrieved by it he should have approached the Court even in the year 1957, after the two representations made by him had failed to produce any result. One cannot sleep over the matter and come to the Court questioning that relaxation in the year 1971. There is the further fact that even after respondents Nos. 3 and 4 were promoted as Divisional Engineers over the head of the appellant he did not come to the Court questioning it. There was a third opportunity for him to have come to the Court when respondents Nos. 2 to 4 were again promoted as Superintending Engineers over the head of the appellant. After fourteen long years because of the tempting prospect of the Chief Engineership he has come to the Court. In effect he wants to unscramble a scrambled egg. It is very difficult for the Government to consider whether any relaxation of the rules should have been made in favour of the appellant in the year 1957. The conditions that were prevalent in 1957, cannot be reproduced now. In any case as the Government had decided as a matter of policy, as they were entitled to do, not to relax the rules in favour of any except overseas scholars it will be wholly pointless to direct them to consider the appellants' case as if nothing had happened after 1957. Not only respondent No. 2 but also respondents Nos. 3 and 4 who were the appellant's juniors became Divisional Engineers in 1957, apparently on the ground that their merits deserved their promotion over the head of the appellant. He did not question it. Nor did he question the promotion of his juniors as Superintending Engineers over his head. He could have come to the Court on every one of these three occasions. A person aggrieved by an order of promoting a junior over his head should approach the Court at least within six months or at the most a year of such promotion. It is not that there is any period of limitation for the Courts to exercise their powers under Article 226 nor is it that there can never be a case where the Courts cannot interfere in a matter after the passage of a certain length of time. But it would be a sound and wise exercise of discretion for the Courts to refuse to exercise their extra-ordinary powers under Article 226 in the case of persons who do not approach it expeditiously for relief and who stand by and allow things to happen and then approach the Court to put forward stale claims and try to unsettle settled matters. The petitioner's petition should, therefore, have been dismissed in limine. Entertaining such petitions is a waste of time of the court. It clogs the work of the Court and impedes the work of the court in considering legitimate grievances as also its normal work. We consider that the High court was right in dismissing the appellant's petition as well as the appeal."

In the case of Shiv Dass Vs. Union of India and Others reported in (2007) 9 SCC 274 the Hon'ble Apex Court has held that :-

"9. It has been pointed out by this Court in a number of cases that representations would not be adequate explanation to take care of delay. This was first stated in K.V. Rajalakshmiah Setty v. State of Mysore (AIR 1967 SC 993). There is a limit to the time which can be considered reasonable for making

representations and if the Government had turned down one representation the making of another representation on similar lines will not explain the delay. In *State of Orissa v. Sri Pyarimohan Samantaray*, (AIR 1976 SC 2617) making of repeated representations was not regarded as satisfactory explanation of the delay. In that case the petition had been dismissed for delay alone. (See also *State of Orissa v. Arun Kumar Patnaik* (AIR 1976 SC 1639)).

The Hon'ble Apex Court in the case of *New Delhi Municipal Council Vs. Pan Singh and Others* reported in (2007) 9 SCC 278 by referring to the judgment rendered in the case of *Lipton India Ltd. and Others Vs. Union of India and Others* reported in (1994) 6 SCC 524 has observed that -

"17. Although, there is no period of limitation provided for filing a writ petition under Article 226 of the Constitution of India, ordinarily, writ petition should be filed within a reasonable time. (See *Lipton India Ltd. And Others v. Union of India And Others* [(1994) 6 SCC 524] and *M.R. Gupta v. Union of India And Others* [(1995) 5 SCC 628].

8. Otherwise also, the petitioner has not annexed any scheme showing his right for consideration to provide piece of land in lieu of acquisition of land.

9. This Court, in view thereof and taking into consideration the fact that the petitioner has approached to this Court in the year 2019 although the process of acquisition has concluded way back in the year 1962-63, the land has been taken into possession by the Bokaro Steel Limited and hence the writ petition is barred by principle of delay and laches and the writ court cannot entertain the writ petition filed after a delay of 50 years since the writ court is not meant for the loathe litigants.

10. In view thereof, this writ petition is dismissed.