
(2019) 07 JH CK 0251
In the Jharkhand High Court
Case No : Writ Petition (C) No. 2531 of 2015

Rajesh Rawani

APPELLANT

Vs

Coal India Ltd, through its Chairman-cum-Managing Director,
Kolkata And Ors

RESPONDENT

Date of Decision : 16-07-2019

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2019) 07 JH CK 0251

Hon'ble Judges : Sujit Narayan Prasad, J

Bench : Single Bench

Advocate : Ravi Prakash Mishra, Nikhil Kumar Mehta

Final Decision : Dismissed

Judgement

1. This writ petition is under Article 226 of the Constitution of India, whereby and whereunder a direction has been sought for to provide compensation as also the employment in lieu of the land acquired by the respondent authority for mining and other ancillary activities/purposes.

2. It is the case of the petitioner that the land in question has been acquired by the State in favour of the Bharat Cooking Coal Ltd. for mining operation but no compensation or employment has been provided, therefore, the instant writ petition.

3. Counter affidavit has been filed on behalf of the Respondent-Bharat Cooking Coal Ltd., wherein inter-alia stand has been taken that the land in question has not subjected to acquisition proceeding rather it has been transferred by virtue of agreement depending upon certain terms and conditions that too sometime in the year 1987 and in lieu thereof the employment has been provided as per the proportion of the land which has been agreed to be transferred in favour of the respondent- Bharat Cooking Coal Ltd.

4. The employment also provided to the nominee of the father of the petitioner

namely Harihar Rawani on 14.08.1987 and he has filed an affidavit to that effect which has been brought on record as Annexure-A of the counter affidavit that he has accepted the terms and conditions of the agreement and also consented with such employment of the nominee but this fact has not been disclosed by the petitioner rather he has suppressed this aspect of the matter with a view of suppressing the existence of the legal heirs of the Harihar Rawani during the relevant period, therefore, the petitioner has got no case for issuance of writ by this Court under Article 226 of the Constitution of India.

5. Having heard the learned counsel for the parties and on appreciation of their rival submissions the factual aspect which is not in dispute in this case is that that land in question has been acquired for the purpose of mining operation by the Bharat Cooking Coal Ltd. depending upon the terms and conditions as contained in the said agreement but one of the conditions is that the employment could be provided.

The father of the petitioner namely Harihar Rawani has filed an affidavit on 14.08.1987 to provide appointment in favour of the nominee and in pursuance to the said affidavit the appointment has been provided.

The petitioner who claims to be legal heirs of the Harihar Rawani has approached before this Court by way of instant writ petition seeking a direction for providing appointment but the fact about the appointment having been provided in terms of agreement supported by the affidavit has been suppressed by the petitioner.

6. The statement which has been made by the respondents in their counter affidavit has not been rebutted by filing any rebuttal reply to that effect, therefore, the statement as has been made in the counter affidavit, is admitted.

7. The petitioner is claiming compensation as also the appointment but here it is the admitted case that it is not a case of acquisition either under the Land Acquisition Act, 1984 and the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, therefore, the provision as applicable under the statutory provision governing the acquisition will not be applicable rather since the land has been acquired by virtue of an agreement which contains certain terms and conditions, therefore, the said condition is binding upon the party by way of bi-lateral contract and in pursuance of the same, the title holder, who has entered into an agreement with the Bharat Cooking Coal Ltd., has made an affidavit to provide employment to one of the nominee and appointment has been provided as would be evident from Annexure-A to the counter affidavit.

8. In that view of the matter what has been contended by the learned counsel for the petitioner to provide appointment and rehabilitation packages along with the compensation, will not be applicable since it is a case of agreement and therefore, the terms and conditions binds the parties and in pursuance thereto, the appointment has been made to one of the nominee which has been nominated by the original title holder namely Harihar Rawani, the petitioner has

got no right to claim appointment.

9. The fact about providing appointment to one of the nominee by Harihar Rawani, the original title holder has not been brought on record by the petitioner in the writ petition rather it has come on record in the counter affidavit filed on behalf of the respondent, therefore, relief which has been sought for by the petitioner is having direct bearing with the aforesaid submission but the petitioner has suppressed that factual aspect and therefore, the same being material in nature and it is settled that if there is any suppression of fact and if the parties are not coming forward to the Court of equity with clean hands, the Court of equity is not made for such litigant, therefore, in the entirety of the facts and circumstance of the case, this Court is of the view that the petitioner has failed to make out his case under Article 226 of the Constitution of India.

10. Accordingly, this writ petition fails, hence it is dismissed.