
(2009) 12 AHC CK 0319
In the Allahabad High Court

Ramdhani

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 05-12-2009

Acts Referred:

Citation : (2010) 1 AWC 1

Hon'ble Judges : Sibghat Ullah Khan, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Sibghat Ullah Khan, J.—In this case on 1.12.2009, an order was passed, which is quoted below:

The facts of this case indicate a horrible state of affairs. A pond comprised in plot Nos. 477 and 1174/93 was put to auction on 6.6.2006. In the bid sheet which is Annexure-1 to the writ petition total area of the pond is mentioned in bigha, biswa and biswancies as 6-3-18. It appears that bid of one Jitan Bind was highest, i.e., Rs. 1,25,000 per year however, he did not deposit the amount within time. Thereafter Sub-Divisional Officer/Deputy Collector, Saidpur waited for 2 and half years and on 2.1.2009 issued a letter to the petitioner who was one of the four bidders in the auction held on 6.6.2006. In the letter it was mentioned that petitioner's bid was of Rs. 19,000 which was minimum however as the other three bidders had refused to take the lease hence it was offered to him and he was required to deposit the amount (Rs. 19,000) by 19.1.2009. Petitioner deposited the amount of Rs. 19,000 on 19.1.2009 still the S.D.O./Deputy Collector waited for eight or nine months and through order dated 30.9.2009 it was ordered that the amount deposited by the petitioner should be returned to him. The first most objectionable thing is that the area is being denoted in bigha, biswas and biswancies while according to the learned standing counsel in the entire State revenue records have been computerised and area is shown only in hectares. Learned Counsel for the petitioner as well as learned standing counsel state that area of the pond in the dispute comes to about 1.5

hectares. Prima facie it appears that since 6.6.2006 till date S.D.O./Deputy Collector concerned is directly responsible for the revenue loss to the Government. For a pond of about 1.5 hectares even the bid of Rs. 19,000 was quite appropriate hence it ought to have been given to the petitioner immediately on the failure of highest bidder and refusal of other two bidders to take fisheries land of the pond in dispute. S.D.O./Deputy Collector in the first instance waited for two and half years before writing letter to the petitioner dated 2.1.2009. In the second instance even petitioner was not granted lease and after eight or nine months letter was written on 30.9.2009 permitting the petitioner to withdraw the amount deposited by him and thereby declining to accept his offer. This shows utterly careless attitude of the Deputy Collector concerned towards Government property and the public. He has horribly messed up the things. Accordingly, the present Deputy Collector/S.D.O. is directed to file his personal affidavit explaining the grave lapses and negligence shown by him. Learned Counsel for the petitioner has agreed for payment of Rs. 6,000 more for one year fisheries lease in respect of pond in dispute. Accordingly, put up at 2 p.m. on 5.12.2009. On the said date Deputy Collector concerned shall be present in person and shall also file his affidavit. Office is directed to supply a copy of this order free of cost to Shri Babu Lal learned standing counsel by tomorrow for immediate communication to Collector, Ghazipur and Deputy Collector, Saidpur, Ghazipur. The Collector shall also explain as to why the area is being shown in bigha, biswa and biswancies in the district in question. The information may be supplied through learned standing counsel.

2. Today affidavit of Swaminath Pathak, Deputy Collector, Saidpur, district Ghazipur has been filed. It has been stated in the said affidavit that the pond is comprised in Plot No. 477, area 1.495 hectares and Plot No. 1174/93, area 0.072 hectares total area 1.567 hectares. In Para 4 of the affidavit it has been stated that due to refusal of the first three bidders to take the lease, lease remained in abeyance for more than one and a half year and thereafter opinion of D.G.C. was obtained. Absolutely no explanation of so much delay has been given. Thereafter, it is mentioned that opinion was received on 19.11.2007 and in accordance with the said opinion, petitioner was offered the lease and he deposited the amount on 19.1.2009. This further delay of more than a year is also unexplained. In Para 6 of the affidavit, it is mentioned that people of the village raised objection and it was found that petitioner was very rich, hence not entitled for grant of fisheries lease by virtue of G.O. dated 17.10.1995. Accordingly, impugned order dated 30.9.2009 was passed for refund of the amount to the petitioner. In the said G.O., there is no bar that lease cannot be granted to a rich person. Moreover, it has not been stated that what is the extent of richness of the petitioner. If except one person, no one is ready to take the lease, then the lease has to be granted to that person. Richness is still not a crime in India. It has been stated in the said affidavit (Para 7) that deponent took charge on 17.2.2009. Accordingly, for the wastage of time and money till then previous S.D.O. is responsible. If due to petty village rivalries, ponds are kept vacant and not let out for fisheries

purposes, it is a loss of the village itself. Every person having business is bound to have some rivalries.

3. Collector through learned standing counsel ought to have disclosed the name of the previous Deputy Collector, which has not been done.

4. Accordingly, writ petition is allowed. Order dated 30.9.2009 is set aside.

5. It is directed that petitioner shall at once be granted ten years fisheries lease @ Rs. 25,000 per year as on the enquiry from the Court as to whether petitioner is ready to pay Rs. 25,000 per year or not, learned Counsel for the petitioner after consulting his client agreed for the same. All the formalities shall positively be completed within three weeks from today.

Office is directed to supply a copy of this order free of cost to Sri Babu Lal, learned standing counsel within a week.