

(2009) 05 GUJ CK 0033

In the Gujarat High Court

Case No : Special Civil Application No. 12570 of 2008

Rashtriya Kisan Dal

APPELLANT

Vs

State of Gujarat and Others

RESPONDENT

Date of Decision : 11-05-2009

Acts Referred:

Citation : (2009) 05 GUJ CK 0033

Hon'ble Judges : K.S. Radhakrishnan, C.J.; Akil Kureshi, J

Bench : Division Bench

Advocate : Party in Person for Petitioner 1, for the Appellant; Kamal B. Trivedi, General and Sangeeta Vishen, AGP for Respondent 1, for the Respondent

Final Decision : Dismissed

Judgement

K.S. Radhakrishnan, C.J.—This Public Interest Litigation has been filed by an organization styled as Rashtriya Kisan Dal represented by its Chairman. There is nothing to show as to whether this organization is a registered organization, representing the cause of farmers in the State of Gujarat. Party-in-person, stating himself to be the Chairman of Rashtriya Kisan Dal, has appeared and argued this case.

2. Writ petition has been preferred seeking directions to the State Government not to allot agricultural lands to 2nd respondent for the purpose of setting up of Tata Nano Car Project. Petitioner has submitted that by allotting the land in question to 2nd respondent, State, in no way is benefited, but on the other hand, it will adversely affect the interests of the farmers/agriculturists, and consequently there will be shortage of agricultural products. Further, according to the petitioner, the Project requires substantial electrical power and if such projects are encouraged, it will adversely affect the persons, who are waiting in queue for power connections in the State. Further, it is also stated that if the State parts with the property reserved for cattle farm and also for educational purposes, the same will adversely affect milk production in the State and also make the State backward in educational field. Parting with the land in question,

according to the petitioner, will render many of the farmers/agriculturists jobless. Further, petitioner also submitted that there is a move by the Government to provide loan to the tune of several crores of rupees to the 2nd respondent causing considerable financial strain to the public exchequer. Petitioner also submitted that incentives and concessions extended by the State Government to 2nd respondent would adversely affect the interest of the State. Petitioner also submitted that adequate compensation has not been paid to the agriculturists and few cases are pending before Civil Court, and if any action is taken by the State Government at this juncture, it will be subjudice.

3. Petitioner also stated that 2nd respondent could not establish Nano Car Project at Singur obviously for the reason that allotment of lands for such a Project would not be in the best interests of farmers in the State of West Bengal. Similar is the situation in the State of Gujarat as well, according to the petitioner, the Government sacrificed the interests of the agriculturists in allotting the land to 2nd respondent. Petitioner also stated that Government has not disclosed or made available copy of the Memorandum of Understanding (MOU) entered into between the State Government and 2nd respondent and the citizens are kept in dark, which is not in public interest.

4. Learned Advocate General submitted that petitioner has no locus standi to move this writ petition. Petitioner has not explained why a group of persons, whom petitioner represents, is unable to represent its own cause. Learned Advocate General also placed reliance on the decision of the Apex Court in BALCO Employees Union (Regd.) Vs. Union of India and Others, and submitted that petitioner has no locus standi to move this petition. Learned Advocate General placed reliance on a common judgment of this Court in Special Civil Applications Nos. 14257 and 14639 of 2008, and submitted that those petitions filed on behalf of the so called owners/agriculturists of the lands were rejected by this Court by awarding costs and terming the petitions as frivolous and vexatious. Learned Advocate General submitted that the land allotted to 2nd respondent belongs to the State Government and the owners were given reasonable compensation when the lands were acquired. In any view, learned Advocate General submitted that petitioner cannot espouse the cause of the agriculturists, since they have no interest in the Government lands allotted to 2nd respondent.

5. Government vide its Resolution dated 21.10.2008 allotted H. 445-17-00 sq. of land @ Rs. 900/- per sq.mt on impartible and unalienable basis to 2nd respondent. Possession of the lands has already been handed over to the 2nd respondent and the Project is under way. Government also acquired land admeasuring about 20 acres 59 gunthas under the provisions of Land Acquisition Act, 1894, and a consent award was passed fixing the amount of Rs. 990/- per sq.mt. as compensation. Lands were acquired for industrial development by Gujarat Industrial Development Corporation (GIDC) and also for construction of approach road to the proposed industrial estate and for widening the existing 1.2

km. road. Referring to paragraph No. 10.5 of the counter affidavit as regards the Annual Schedule of Rates (ASR), Learned Advocate General submitted that so far as the land allotted to 2nd respondent is concerned, market value was fixed at Rs. 900/- per sq. mt., i.e., much higher than the ASR. Further, it is also stated that the aforesaid market value was fixed on the recommendation of State Level Price Committee, and also taking into consideration the opinion of the Chief Town Planner. Further, it is also stated that the Project undertaken by the 2nd respondent would generate large scale employment and would also generate revenue for the State. Reference was also made to Resolution dated 21.10.2008, reflecting the terms and conditions on which land was allotted, and also the schedule of payment to the State Government. Further, the 2nd respondent was exempted only from stamp duty and registration charges. Learned Advocate General also stated that no loan amount was advanced to 2nd respondent for setting up the Project as alleged by the petitioner.

6. We seriously doubt the locus standi of the petitioner in espousing the cause of a large independent body. Petitioner has not explained how allotment of land to 2nd respondent would affect him personally. Few of the agriculturists approached this Court claiming rights over the land allotted to 2nd respondent. This Court dismissed those writ petitions. In this connection, we may refer to the decision of the Apex Court in *Balco Employees' Union* (supra). The Apex Court held that judicial interference by way of PIL is available if there is injury to public because of dereliction of constitutional or statutory obligations on the part of the Government. Further, it is also held by the Apex Court that in the sphere of economic policy or reform court is not the appropriate forum. Apex Court held that courts will interfere only if there is a clear violation of constitutional or statutory provisions or non-compliance by the State with its constitutional or statutory duties. Further, it is also held that in case of a policy decision on economic matters, the courts should be very circumspect in conducting any inquiry or investigation.

7. We are, therefore, of the view that petitioner has not succeeded in establishing that the decision taken by the Government in allotting the land to 2nd respondent has in any way violates any statutory provision or statutory rules or regulations. General allegation that if the lands are allotted, it will adversely affect the agriculture, power supply, etc. cannot be countenanced by a writ court. Petitioner has not succeeded in showing that the transaction entered into between the State Government and 2nd respondent is a malafide exercise of power. Under the circumstances, we find no reason to entertain this Public Interest Litigation, which is not in public interest and intended only for media attention and publicity.

8. Consequently, Special Civil Application is dismissed. However, in the facts of the case, we are not awarding any costs.