
(2022) 04 CHH CK 0070
In the Chhattisgarh High Court
Case No : Writ Petition (PIL) No. 22 Of 2020

Ravi Shankar

APPELLANT

Vs

State Of Chhattisgarh

RESPONDENT

Date of Decision : 19-04-2022

Acts Referred:

Petroleum Rules, 2002 — Rule 144

Citation : (2022) 04 CHH CK 0070

Hon'ble Judges : Arup Kumar Goswami, CJ;Rajendra Chandra Singh Samant, J

Bench : Division Bench

Advocate : Bharat Gulabani, Vikram Sharma, Sourabh Sharma, Harsh Tripathi

Final Decision : Disposed Of

Judgement

Arup Kumar Goswami, CJ

1. Mr. Bharat Gulabani, learned counsel for the petitioner submits that though earlier Mr. Varun Sharma had addressed arguments in this case, he being not available, he has been asked to address the Court on behalf of the petitioner.
2. Accordingly, we have heard Mr. Bharat Gulabani, learned counsel for the petitioner. Also heard Mr. Vikram Sharma, learned Deputy Government Advocate, appearing for respondent Nos. 1, 2, 3, 5 & 6, Mr. Sourabh Sharma, learned counsel, appearing for respondent No.4 and Mr. Harsh Tripathi, learned counsel, appearing for respondent No.7.
3. The respondent No.4, Bharat Petroleum Corporation Limited (BPCL), issued an advertisement in the year 2014 for appointment of dealers to establish and run Retail Outlets (RO) in certain identified locations.
4. The present public interest litigation is filed in connection with Sl.No.58 in respect of location "Village and Post Salhewara Tehsil Chuikhadan". The respondent No.7 has been selected for running the RO by respondent No.4. The respondent No.7 had offered land in Khasra No. 188/1, admeasuring 0.517

hectares, for the aforesaid purpose. An application dated 21.11.2016 was filed by the respondent No.4 for grant of 'No Objection Certificate' under the provisions of Rule 144 of the Petroleum Rules, 2002.

5. The grievance, essentially, highlighted is that the respondent No.7 has started construction of RO by encroaching a water canal which is coming across his land. It is also alleged that as frontage of the land, offered by the petitioner, does not meet the requirement as laid down in the advertisement, the respondent No.7 had resorted to encroaching the government land and water body.

6. The learned counsel for the parties submit that RO has started functioning from the last year.

7. At paragraphs 3, 4, 5 & 6 of the affidavit of the State/respondents, it is stated as follows :

"3. At the very outset, it is respectfully submitted that the entire averments raised by the petitioner deserves to be dismissed as it is based on incorrect facts for the reason that the land which the petitioner claim to be as a government land, it is not a government land, but the private land registered in the name of Respondent no. 7. Though, it is true that water canal falls in the Khasra No 188/4 which was constructed way back 50 years ago, but that same land (Khasra No. 188/4) is the part and parcel of big chunk of the khasra 188 and the same land was donated by the forefathers of the respondent no. 7 to the State Government for the purpose of the construction of the water canal for the welfare of the public at large, and this facts further gets substantiated from the letter written by the Executive Engineer Water Resources Department to the Naib Tehsildar in the proceeding initiated by the answering respondents, the copy of the same letter which is being written by EE WRD Division to Naib Tehsildar is being annexed as ANNEXURE R-1. And, therefore the entire petition as framed by the petitioner is on incorrect facts and liable to be dismissed. It is pertinent to state here that, Khasra No. 188 is of 1.627 Hectare, which was further subdivided into four Khasra i.e. 188/1 (which is private land and in the possession of Amit Agrawal respondent No 7) having the area of 0.517 Hectare, and 188/2 (Which is being acquired by the Government from forefathers of Respondent No 7, for the purpose of the construction of Road and registered in the name of Government) having the area of 0.085 Hectare, 188/3 (this is registered in the name of Abhishek Agarawal brother of respondent no 7) having the area of 0.514 Hectare, 188/4 (this is the private land registered in the revenue record in the name of the Atul Agarwal, from which the present water canals flows and which is donated by the forefathers of the Respondent No 7) having an area of 0.511 Hectare. The copies of all the revenue records from Khasra No 188/1 to 188/4 is being annexed as ANNEXURE R-2 (Coll).

4. It is pertinent to state here that, petitioner along with the other resident of Village Salhewara has made a complaint on 09/01/2020 which is annexed as Annexure-P/15 (Page-57) to the collector, district-Rajnandgaon stating therein,

that the respondent no. 7 is encroacher on the water canal which is situated at government land and therefore kindly look into it. On the basis of said complaint, the state initiated an enquiry and published an advertisement on 14/01/2020 for the information to the villagers at large for remaining present on 18/01/2020 for the purpose of demarcation of the land of the petition at which the petrol pump is situated. The copy of the Advertisement dated 14/01/2020 is annexed herewith as Annexure- "R/3".

5. It is pertinent to state here that, on the basis of the advertisement, the demarcation was carried on 18/01/2020 in the presence of villagers of village Salhewara and in the presence of Revenue Inspector as well as Gram-Kotwar. The copy of the panchnama is already being annexed by petitioner himself as Annexure-P/18 (Page-61). It is worthy to state here that, on the basis of this Panchnama, the Revenue Inspector has forwarded this report to the Naib Tahsildar, Chhuikhadan on 20/01/2020 whereby it is categorically said by him that in the subject land i.e. Khasra No. 188/4 there is no such encroachment by the private respondent No.7 and the Petrol Pump is being constructed over his own private land i.e. Khasra No. 188/1. The copy of the reports forwarded by the Revenue Inspector to the Naib Tahsildar is already part of record as Annexure P/19 (Page-62).

6. Therefore, by virtue of above paras, it can be certainly stated that there is no such encroachment on the government land, and in fact the land on which the canal is situated is the part and parcel of the private land of the private respondent No.7 itself and which is now being used as public canal and the Petrol Pump is being situated at Khasra No. 188/1 which is adjoining to the Khasra No. 188/4."

8. A perusal of the averments made above would go to show that the contention of the petitioner that the canal is in Khasra No. 188/1, is factually not correct.

9. No rejoinder-affidavit has been filed by the petitioner.

10. When the entire edifice of the public interest litigation, which is based on the assertion that the water body is sought to be encroached by the respondent No.7, is belied by the averments made by State respondents in their affidavit, we see no good ground to continue with the present public interest litigation, and as such, no further orders are called for in this writ petition and, accordingly, the same is closed and disposed of.