
(2010) 03 OHC CK 0029
In the Orissa High Court

Sudarsana Mohanta

APPELLANT

Vs

State of Orissa and Others

RESPONDENT

Date of Decision : 15-03-2010

Acts Referred:

Land Acquisition Act, 1894 — Section 4(1)

Citation : (2010) 110 CLT 144

Hon'ble Judges : I.M. Quddusi, Acting C.J.; Sanju Panda, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Sanju Panda, J.—In this Writ Petition, the Petitioner has prayed for quashing of the letter dated 24.4.2009 issued by the Land Acquisition Officer, Kalinga Nagar, Jajpur Road rejecting the Petitioner's application for issuance of Identity Card under the Guidelines regulating rehabilitation & resettlement of families/persons displaced/affected due to acquisition of land for Kalinganagar Integrated Industrial Complex at Dubri in the district of Jajpur.

2. The residential house of the Petitioner is situated in Plot No. 4(P) under Khata No. 147 in village Baragadia, P.S. Kalinganagar of Jajpur District. The aforesaid land was acquired on 12.10.1995 u/s 4(1) of the Land Acquisition Act, 1894 (in short, "the Act") for establishment of M/s. Neelachala Ispat Nigam Ltd. for Integrated Industrial Complex at Dubri in the district of Jajpur. The Petitioner further pleaded that by 12.10.1995 when the notification u/s 4(1) of the Act was published, he was above 18 years of age & residing separately from his family. After the land was acquired, the Government issued guidelines on 24.1.1997 for rehabilitation/resettlement of displaced persons due to acquisition of the land. Thereafter suppressing the said guidelines, on 18.11.2005 another notification was issued by the Government of Orissa in the Revenue Department for the said purpose.

3. For better appreciation, the relevant portions of the notification dated

18.11.2005 issued by the Government of Orissa in the Revenue Department is quoted below:

2. Definition of family for the purpose of rehabilitation:

(a) The family in relation to a displaced person would mean:

(i) Husband & wife, as the case may be, & their unmarried children/ but does not include a major son(es) who have been separated from the family on or before the date of notification u/s 4(1) of the Land Acquisition Act, 1894 in respect of area/village: In such a case, the major son(es) shall be treated as a separate family.

(ii) The unmarried daughter above 30 years of age will be treated as separate family for the purpose of , rehabilitation benefits.

(iii) An Identity Card to each displaced family shall be issued by the Collector, Jajpur under joint signature of the Collector, Jajpur & the Head of the family concerned indicating all detailed particulars as per the format given below:

I. Nama of the village/G.P/P.S.

II. Name, Father name & address of the Head of the family.

III. Name of other member in the family with indication of the nominee who may be offered a job in the project.

IV. Whether S.C./S. T/S.E.B.C.

V. Passport size photograph to be affixed herewith attested by Collector or his authorised officer.

3. xxx xxx xxx

4. Eligibility Criteria, for determining displaced families:

A family/person shall be considered to have been displaced & will eligible for rehabilitation benefits if:

(a) All the land of the family has been acquired.

(b) More than 1/3rd of the land along with homestead land has been acquired.

(c) Only homestead land has been acquired.

(d) Homesteadless persons & landless persons residing in the Village who have been/are likely to be displaced.

5. Procedure for providing employment/self-employment:

A. Permanent residents of Orissa shall be given preference by the Company for employment/Self-employment. The Companies setting up the industrial projects at Kalinganagar will have to give preference to the nominated one member of each displaced family. In providing employment either in the Industry or in its

ancillary units in the following order of preference:

- (a) Displaced families losing all lands including homestead land;
- (b) Displaced families losing more than 2/3rd of land & homestead land;
- (c) Displaced families losing more than land; 1/3 rd of land & homestead land;
- d) Other displaced families.

B. For nominated members of displaced families not provided with employment in the manner indicated above, the companies will assist in their self-employment through allotment of shops, service premises & other activities in the company's township or otherwise.

C. The company shall provide appropriate training facilities to the nominated persons of the displaced families to acquire skill as required for such employment.

4. Since the Petitioner was above 18 years & separated from the family, as per the guidelines, he claims that he is entitled to get an Identity Card for rehabilitation/resettlement as a land oustee. Accordingly, he requested the Opp. Parties to issue Identity Card. As the Opp. Parties did not issue such Card, he filed WP(C) No. 18056 of 2008 which was disposed of by this Court on 12.2.2009 directing the Collector-cum-District Magistrate, Jajpur, to consider & dispose of the representation of the Petitioner in accordance with law on its own merit within a period of two months from the date of production of a certified copy of the order. Accordingly, Petitioner communicated the order of this Court dated 12.2.2009 to the Opp. Parties.

5. While the matter stood thus, the Petitioner received the impugned rejection letter dated 24.4.2009 of the Land Acquisition Officer, Kalinga Nagar, Jajpur Road.

6. Opp. Parties 2 & 3 filed their counter affidavit specifically stating therein that after receipt of the order of the Court in WPC No. 18056 of 2008, notice was issued to the Petitioner for issuance of Identity Card. The Petitioner appeared before the authorities on 8.4.2009 along with the relevant documents in support of his claims. On verification, it appeared that the Petitioner's father was residing in village Baragadia & the field inquiry was conducted by the authorities to ascertain the number of structures existing over the land & number of families to be displaced from the acquired area in the said village. The Petitioner's name did not find place in the said list of structures as well as the displaced families. However, the Petitioner was included as a member of the family of one Milan Mohanta son of Rengu Mohanta at Sl. No. 125/35 of the Displaced Family Enumeration Register prepared by the Competent Authority. The authority recorded the age of the Petitioner as 20 years as on 1.1.1996 & at the time of inquiry the Petitioner did not produce any document in support of proof of his age. However, since the Petitioner is working at Nilachal Ispat Nigam Ltd. (NINL), Kalinga Nagar at Jajpur on inquiry it appears that the date of birth of the Petitioner is 14.2.1978 as per his HSC Examination Certificate issued by the

Board of Secondary Education, Orissa. As per the said Certificate, the age of the Petitioner on 2.8.1991 was 13 years 5 months & 19 days. Therefore, it cannot be said that by that date he was major & separated from the family on the date of notification u/s 4(1) of the Act which was published on 2.8.1991.

7. Further it appears that the father of the Petitioner was considered as a displaced person & he nominated the present Petitioner to avail the employment benefit in his place. The Petitioner availed that benefit & is continuing as an employee of NINL since 2003. He had not taken any step/for the last 11 years for issuance of Identity Card to his father. Therefore, the Petitioner's prayer for issuance of Identity Card is liable to be rejected.

8. Petitioner also filed a rejoinder to the counter wherein he stated that the notification u/s 4(1) of the Act was issued on 12.10.1995 & due to acute poverty, as suggested by his father, he accepted the employment as a nominee of his father. Regarding the date of birth mentioned in the HSC Examination Certificate, he has not-stated anything in the rejoinder.

9. Learned Counsel appearing for the Petitioner submitted that in the rejection letter the authorities did not refer to the guidelines issued by the State Government for rehabilitation of the land oustee & though similar Identity Cards have been issued to other persons, the Petitioner has been deprived of getting the said benefits.

10. From the aforesaid facts of the case it appears that the date of birth of the Petitioner as per HSC Examination Certificate is 14.2.1978. The said fact has not been refuted by the Petitioner by producing any other document. Therefore, even if the plea of the Petitioner that the notification u/s 4(1) of the Act was published on 12.10.1995 is accepted, by that date the age of the Petitioner was only 17 years & 7 months & he had not completed the age of 18 years. Hence, as per the guidelines issued by the State Government in the Revenue department in the year 2005, the Petitioner was not coming within the family of "displaced person" to get the benefit. Further since the Petitioner has already availed the benefits & is continuing in the service & also on the ground of equity, this Court is not inclined to interfere with the rejection order of the authorities to issue Identity Card to the Petitioner.

The Writ Petition is accordingly dismissed.

I.M. Quddusi, A.C.J.

11. I agree.