
(1993) 10 CAL CK 0017
In the Calcutta High Court
Case No : F.M.A.T. No. 1123 of 1993

Sudip Kumar Saha

APPELLANT

Vs

State of West Bengal and Others

RESPONDENT

Date of Decision : 06-10-1993

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : 98 CWN 729

Hon'ble Judges : A.M. Bhattacharjee, C.J.; Nisith Kumar Batabyal, J

Bench : Division Bench

Advocate : M.P. Banerjee, P.P. Mukherjee, S. Chatterjee, B.P. Subba and R. Singh, for the Appellant; B.C. Ray, Arunabha Ghosh, Arun Ghosh, R.S. Dutt and S. Bakshi, for the Respondent

Final Decision : Dismissed

Judgement

A.M. Bhattacharjee, C.J.—We do not think that there is anything in this appeal which warrants our interference with the impugned order. The appellant-petitioner has been given the Ijara of the Ferry-Ghat for one year only. He, however, asserts, unilaterally though, that as he and others concerned were given Ijaras for this Ferry-Ghat for not less than three years on earlier occasions, he had a legitimate expectation that on this occasion also the Ijara of the Ferry-Ghat would be for not less than three years.

2. The petitioner-appellant has, however, accepted the Ijara for one year without protest and that being so, his case of legitimate expectation for an Ijara for a period of not less than three years can no longer show its head. The doctrine of legitimate expectation is nothing but a further development of the doctrine of promissory estoppel. Under this principle if there was a representation or a consistent course of conduct from which a person could reasonably expect that something will be done, and has acted accordingly by altering his position or otherwise, he may have a justiciable cause of action. But as already stated, the petitioner has accepted the Ijara for one year without any protest and can no

longer, therefore, be regarded to have acted on such legitimate expectation or to have altered his position accordingly.

3. As has been pointed out by the Supreme Court in *Narendra Kumar Maheshwari Vs. Union of India (UOI) and Others*, the doctrine of legitimate expectation applies only when a person had been given reasons to believe that the State will abide by certain policy or guideline on the basis of which such person might have been led to take certain actions. This doctrine is akin to the doctrine of promissory estoppel.

4. As has been pointed out by the Supreme Court in *Union of India vs. Hindustan Development Corporation* [Judgements Today 1993(3) SC 15], the concept of legitimate expectation is the latest recruit to a long list of concepts fashioned by the Courts for the review of administrative action, but that principle has got to be invoked and applied with great care and caution. Otherwise a resourceful litigant having vested interest in contracts, licences etc. can successfully indulge in getting welfare activities thwarted to further his own interest. Relying on *Attorney General for New South Wales vs. Quin* (1990-64 Australian LJR 327), it has been held that to strike down the exercise of administrative power solely on the ground of avoiding the disappointment of the legitimate expectations of an individual would be to set the Courts adrift on a featureless sea of pragmatism and that notion of legitimate expectation, not amounting to a legal right, is too nebulous to form a basis for invalidating the exercise otherwise accords with law. Only when the denial of legitimate expectation in a given case amounts to denial of guaranteed right or is arbitrary, discriminatory, unfair or biased, then the same can be questioned on the well-known grounds attracting Article 14 of the Constitution. But otherwise, a claim based solely on mere legitimate expectation without anything more cannot ipso facto give a right to invoke these principles. In the case at hand there is no denial of any guaranteed legal right. And the case not being that others similarly situated have been granted *Ijaras* for longer period, the question of arbitrariness, discrimination, unfairness or bias cannot be said to have been made out.

5. Reliance has been placed on behalf of the appellant-petitioner on *Navjyoti Co-operative Housing Society etc. Vs. Union of India and Others*, For our present purpose, the said decision only appears to be an authority for the proposition that legitimate or reasonable expectation, if otherwise well grounded, can found a cause of action. As indicated hereinbefore and also hereinafter, no such case for legitimate expectation can be gleaned in this case.

6. The affidavit of the petitioner and the annexures do not make out a clear case of legitimate expectation either. All that the petitioner asserts is that at the time when the present *Ijara* for one year was granted, he was assured by the Officer concerned that he would be granted further extension. As already indicated, this assurance of extension is solely founded on the self-serving assertion of the petitioner which has been consistently and categorically denied by and on behalf of the respondent authorities. Even assuming that there was such an assurance,

that might, if at all, furnish a cause of action for specific performance of such assurance; but cannot found any action on the basis of legitimate expectation. But on the records, however, we are not in a position to conclude that there was any such assurance either. We, accordingly, dismiss the appeal and as a result the order under appeal would stand affirmed. We, however, make no order as to costs.