
(1966) 01 GAU CK 0004
In the Gauhati High Court
Case No : Civil Rule No. 305 of 1964

Surendra Chandra Das

APPELLANT

Vs

Divisional Forest Officer, Cachar Division and Others

RESPONDENT

Date of Decision : 05-01-1966

Acts Referred:

Citation : AIR 1967 Guw 19

Hon'ble Judges : G. Mehrotra, C.J.; S.K. Dutta, J

Bench : Division Bench

Advocate : J.P. Bhattacharjee and S.N. Medhi, for the Appellant; G.K. Talukdar, Jr. Govt. Advocate and S.M. Lahiri and A.M. Mujumdar, for the Respondent

Final Decision : Dismissed

Judgement

G. Mehrotra, C.J.—The Petitioner in pursuance of a sale notice issued on the 14th July, 1964 for the sale of Bamboo Mahals of Cachar Division for a period from the 1st October 1964 to 31st March 1965, along with others submitted tenders on the 26th August 1964. The tender of the Petitioner was for Rs. 33,001 and that of Respondent No. 4 Abdus Salam Choudhury was for Rs. 37,555. The Petitioner however was given preference and settlement was ordered to be made in his favour. As against that an appeal was filed which was rejected. Thereupon a review petition was filed to the Governor as, provided for in the sale notice. The review was allowed and it is against that order that the present petition has been filed.

2. The Government Advocate contends that as the period of settlement has already expired the petition has become infructuous. It is true that the Petitioner is not entitled to any relief by this Court in view of the fact that the period of settlement has already expired. The contention of the Petitioner is that the interpretation put on Clause 25 of the sale notice by the Governor in disposing of the review petition is apparently erroneous and this Court for future guidance of the authorities concerned should decide that point, irrespective of the fact whether the Petitioner is entitled to any relief by this Court or not.

3. Paragraph 25 of the sale notice reads as follows:

25(a) Preference in settlement of the mahal may be given to the persons belonging to the Scheduled Castes, Scheduled Tribes or other Backward Classes as recognised by the State Government provided that their offer is within 7? per cent of the recognised highest bid and subject to the suitability and ability of the person concerned to perform the task satisfactorily.

(b) Even if the bid of candidates belonging to the Scheduled Castes, Scheduled Tribes or other Backward Classes as recognised by the Government is not within 7? per cent of the recognised highest bid, they may be given preference in settlement provided they are otherwise considered able and suitable for the performance of the work in question.

(c) If settlement is given under Clause (a) above to a person belonging to the Scheduled Castes, Scheduled Tribes or other Backward Classes as recognised by the Government he will be eligible for settlement at an amount within 7? per cent of the recognised highest bid provided the same highest bid of the mahal does not exceed Rs. 35,000.

(d) This concession will also be extended to a Co-operative Society provided not less than 80 per cent of the members thereof are persons belonging to Scheduled Castes or Scheduled Tribes and between individuals of categories mentioned above and Co-operative formed by such individuals, the Co-operative may be given preference to individuals.

The reviewing authority has held that Sub-clauses (a) and (b) mentioned above which provide for certain preference to the Scheduled Castes, Scheduled Tribes or other Backward Classes are subject to Sub-clause (c). In effect the interpretation of the reviewing authority is that the scheduled Castes, Scheduled Tribes or other Backward Glasses are not entitled to any preference as provided for under Sub-clauses (a) and (b) if the highest bid exceeds Rs. 35,000. We do not think that such an interpretation is correct. All these three sub-clauses are independent and they provide for different sets of circumstances. The effect of Sub-clause (c) only is that in cases where the case is covered by Sub-clause (a) the monetary concession will not be available to the Scheduled Castes but so far as Sub-clause (b) is concerned, it is in no way subject to Sub-clause (c). We accordingly interpret Clause 25 of the sale notice. But the petition must be dismissed as the Petitioner is not entitled to any relief in view of the fact that the period of settlement has already expired. We make no Order as to costs.