
(2004) 08 PAT CK 0117
In the Patna High Court
Case No : C.W.J.C. No. 2402 of 2000

Surendra Paswan

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 05-08-2004

Acts Referred:

Citation : (2004) 4 PLJR 587

Hon'ble Judges : Chandramauli Kr. Prasad, J

Bench : Single Bench

Advocate : Kalika Nandan, for the Appellant; Jayanandan Singh for Power Grid Corporation and J.C. to S.C. V. for the State, for the Respondent

Final Decision : Dismissed

Judgement

Chandramauli Kr. Prasad, J.—This application has been filed for issuance of a writ in the nature of mandamus commanding the respondents to appoint the petitioner in the Power Grid Corporation. According to the petitioner he was cultivating the land belonging to his father-in-law which was acquired for construction of power sub station in the year 1987 and as such under the policy of the Power Grid Corporation he is entitled to be given employment as land oustee. According to him the fact that he is a land oustee would be evident from communication dated 25.7.1997 (Annexure-15) of the Block Development Officer, Bihar Sharif whereby he had forwarded the application to the Deputy Development Commissioner for appointment of the petitioner to any Class IV post in the National Thermal Power Corporation (for short NTPC) the predecessor-in-interest of the Power Grid Corporation.

2. Counter affidavit has been filed on behalf of respondent no. 2 in which it has been stated that land for construction of Bihar Sharif Sub Station was acquired in the year 1987 under the Land Acquisition Act and as mutually agreed between the N.T.P.C. and the district administration five candidates were appointed in the N.T.P.C. It has been further stated that the District Magistrate by its letter dated 6.12.1990 had sent the list of land oustees in which the name of the petitioner

does not figure. It has been further stated that the petitioner being the son-in-law of the person whose land has been acquired is not entitled to be given appointment as land oustee.

3. Mr. Kalika Nandan appearing on behalf of the petitioner submits that as the land in cultivation of the petitioner, although belonging to his father-in-law, was acquired, petitioner shall be deemed to be a land oustee and therefore, entitled to be appointed. He draws my attention to the policy of the Power Grid Corporation in regard to the facility to be given to land oustees. He points out that the petitioner being in physical possession of the land belonging to his father-in-law under Clause 2.2 of the said scheme, he shall be deemed to be land oustee. Relevant portion of Clause 2.2 of the scheme reads as follows:-

2.2. Eviction.

A person who may be in physical possession of the land or homestead and/or cultivating it or using it, even without a legal title over it. Such person may also come forward to claim due compensation. It will therefore, be necessary to include such claimants subject to the verification and certification by the competent civil revenue authorities.

4. As stated earlier, the name of the petitioner is not mentioned in the list of the land oustee and, therefore, he shall not be entitled for appointment on that ground. Further, a plain reading of the aforesaid provision it is evident that even physical possession of a person without a legal title over the same may confer him the status of land oustee. Here it is not the case of the petitioner that he is in physical possession without any title over it. Said clause, in my opinion, shall relate to such persons who are in physical possession asserting their own right and not a person in permissible possession. In the present case, petitioner asserts his permissible possession from his father-in-law and, therefore, he shall not come within the expression "land oustee" used in the said scheme. The communication dated 25.7.1997 simply forwards the name of the petitioner for appointment and from that it can not be inferred that he is a land oustee. As the petitioner is not a land oustee on any count, I am of the opinion that he is not entitled for appointment on that ground. In the result, there is no merit in the application and it is dismissed accordingly. No cost.