

(2016) 08 JH CK 0085

In the Jharkhand High Court

Case No : Writ Petition (C) No. 5872 of 2014.

**Wing Commander (Retd.) Bishwanath Prasad Singh - Petitioner @HASH
State of Jharkhand**

Date of Decision : 23-08-2016

Acts Referred:

Citation : (2016) 4 JBCJ 454 : (2017) 2 JCR 670 : (2016) 4 JLJR 80

Hon'ble Judges : Aparesh Kumar Singh, J.

Bench : Single Bench

Advocate : Mr. A. Allam, Sr. Advocate and Ms. Nehala Sharmin, Advocate, for the Petitioner; Mr. Atanu Banerjee, G.A, for the State

Final Decision : Dismissed

Judgement

Mr. Aparesh Kumar Singh, J. - Heard counsel for the parties.

2. Petitioner had earlier approached this Court in W.P.(C) No. 6261 of 2006 which was disposed of vide order dated 9th August, 2012 directing the Secretary, Department of Revenue and Land Reforms, Government of Jharkhand to take a decision on his representation in accordance with law and the relevant circular as also the attendant facts and circumstances within stipulated period. Petitioner had preferred the said writ petition seeking rehabilitation in the nature of allotment of a piece of land for construction of house and for agricultural purpose within the Giridih Area/Town in view of the Government notification bearing memo no. 4725 dated 14/16th August 1972 as he has served the nation for 24 years in different capacity under the Indian Air Force. He joined the Air Force as a Senior Medical Officer in the year 1975 and retired as Wing Commander on 31st May 1999.

3. Taking note of this, the writ petition was disposed of vide order dated 9th August 2012 (Annexure-1). The circular in question is Annexure-2 dated 14/16th August, 1972. One of the conditions contained in Annexure-2 relating to rehabilitation of ex-serviceman is that the applicant should have been resident of the State of Bihar and does not have any land in his name. Apart from that he

should have been in the service of Air Force for minimum period of six months. 2 Acres of agricultural land and 12? decimals of residential land could be allotted upon fulfilment of the conditions prescribed therein to such an ex-serviceman.

Representation of the petitioner has been rejected by the impugned order at Annexure-8 dated 7th July, 2014 passed by the Secretary, Revenue and Land Reforms Department, Government of Jharkhand inter alia on the ground that :-

(i) Petitioner has superannuated in 1997 where-after State of Jharkhand has come into existence.

(ii) Petitioner is not a resident of State of Jharkhand. He is original resident of District Saran in Bihar.

(iii) Petitioner's claim to be original resident of Giridih on the basis of studies undertaken on account of the engagement of his relatives in Central Coalfields Limited cannot establish that he is a resident of State of Jharkhand.

(iv) Petitioner is a resident of Noida, Uttar Pradesh where he is living.

4. Claim of the petitioner for allotment of agricultural and residential land at Giridih is not made out under the scheme/circular in question.

5. Counsel for the petitioner submits that the report at Annexure-4 by the Circle Officer, Manjhi, Saran to the Additional Collector, Saran, Chhapra shows that about 1 Bigha 3 Katha 9 Dhur of the land fall in the share of his father upon dissolution from their ancestors in respect of plots no. 344, 151, 140, 86 and 130 in Thana No.162, Mauza Barwa. Petitioner is one of the six brothers and the portion of land which fell to his share about 4 decimals of land was sold in distress for financial needs in the year 1982. He is, therefore, a landless person. His stay at Noida is temporary in nature. He seeks rehabilitation in the State of Jharkhand having resided in Giridih since long. The Directorate General of Medical Services (AIR) by certificate at Annexure-3/1 has also given his permanent home address at village Beniadih, District Giridih. Therefore, the impugned order denying the benefit of land on rehabilitation suffers from non-application of mind and taking into account irrelevant facts.

6. Counsel for the State Mr. Atanu Banerjee has referred to the contents of the counter affidavit and defended the impugned order. It is submitted that petitioner has failed to produce certificate of his residence at Giridih even after being called for through letter dated 10th April, 2013 of the Circle Officer, Giridih (Annexure-A to the counter affidavit). In such circumstances, Deputy Commissioner, Giridih enquired from the District Magistrate, Chapra, Bihar as to whether petitioner is a resident of village Barwa, thana Daudnagar, Chapra as per the permanent address shown. This letter dated 30th May 2013 has been duly answered by Annexure-A/2 dated 6th June 2013 issued by the District Magistrate, Saran, Chapra confirming that the petitioner is a permanent resident of Mauza Barwa Bujurg, Thana No. 162 being the descendant of Late Rajnarayan Singh, a land holder in Khata No. 344, 151, 140, etc. entered into Register-II as well. It also

confirmed that area of 1 Bigha, 3 Katha, 9 Dhur fell in the share of his father.

7. Learned counsel for the State submits that rehabilitation can only be done in terms of the scheme and policy of the State Government. Petitioner has been found not to be permanent resident of the State of Jharkhand, rather the State of Bihar. Other grounds also taken note in the impugned order do not justify his rehabilitation for agricultural land in the district of Giridih as he has been residing at Noida after his retirement.

8. I have considered the relevant material facts pleaded and the submissions of the parties.

9. Rehabilitation of an ex-serviceman in any State is based upon the policy of the State Government applicable. One of the conditions for re-settlement is that the applicant should be a permanent resident of the State. The inquiry made through the District Magistrate, Saran by the Deputy Commissioner, Giridih has revealed that the petitioner is a permanent resident of District Saran (Chapra). It also further appears that he has been living after his retirement at Noida. These relevant material grounds have been considered by the Secretary, Land Reforms and Revenue Department in the impugned order which do not therefore suffer from non-application of mind.

10. In such circumstances, the claim of rehabilitation of the petitioner in the State of Jharkhand under the policy resolution dated 14/16th August 1972 is not made out. The impugned order does not suffer from any infirmity in facts or in law. Writ petition is accordingly dismissed.