
(2013) 02 RAJ CK 0077
In the Rajasthan High Court
Case No : Civil Writ Petition No. 6159 of 2011

Yakub Bhati

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 04-02-2013

Acts Referred:

Constitution of India, 1950 — Article 226(3)

Citation : (2013) 2 CDR 904

Hon'ble Judges : Vijay Bishnoi, J

Bench : Single Bench

Advocate : Mukesh Vyas, for the Appellant; Rajeev Purohit, for the Respondent

Final Decision : Dismissed

Judgement

Vijay Bishnoi, J.—Though the matter comes up on an application under Art. 226(3) of the Constitution of India for vacation of ex-parte interim order dated 15.07.2011, yet with the consent of the learned counsel for the parties, the matter is finally heard and is being decided by this order. By this writ petition, the petitioner, who is working as Assistant Engineer in Urban Improvement Trust, Bikaner, has challenged the transfer order dated 29.06.2011 passed by respondent No. 2, whereby he has been transferred from Urban Improvement Trust, Bikaner to Urban Improvement Trust, Bhilwara. The petitioner has challenged the aforesaid transfer order mainly on two counts; firstly, there are three other A. Ens. working on deputation in UIT, Bikaner, but without repatriating them, the respondent No. 2 has transferred the petitioner vide impugned order in an illegal manner; secondly, the petitioner was a member of the team which removed several encroachments in Bikaner City and due to the said action of the petitioner, several political persons became annoyed and they written various letters to the Hon'ble Chief Minister complaining against the petitioner, and on this count, the petitioner has been transferred.

2. It is contended by learned counsel for the petitioner that since the transfer of the petitioner is politically motivated, the same cannot be sustained.

3. On the other hand, learned counsel-Mr. Rajeev Purohit appearing on behalf of the Urban Improvement Trust has denied the claim of the petitioner and has argued that the petitioner has been transferred on account of administrative exigencies only. He has invited my attention towards the various documents annexed with the reply to the writ petition, which indicate that for the purpose of removal of encroachments in Bikaner City, the Urban Improvement Trust has deputed several employees and the petitioner was one of them.

4. Learned counsel for respondent No. 3 has argued that several employees took part in removal of encroachments and the petitioner was one of them, therefore, it cannot be said that the petitioner has been transferred only on account of being a member of Encroachments Removal Team. It is also argued by the learned counsel for respondent No. 3 that the petitioner is a permanent employee of the Urban Improvement Department of Government of Rajasthan and he cannot claim parity with the persons, who are deputed with the Urban Improvement Trust and are belonging to other departments. Learned counsel for the respondent No. 3 has submitted that there is no illegality in the transfer of the petitioner and, therefore, the writ petition is liable to be dismissed.

5. I have given my thoughtful consideration to the rival submissions made by learned counsel for the parties.

6. The position of law is settled that a transfer order can only be interfered with when it suffers from mala fide or is issued in violation of the statutory provisions.

7. In the writ petition, the mala fides have not been alleged against any particular person and even during the course of arguments, the learned counsel for the petitioner has not been able to convince that the petitioner has been transferred mala fide. The counsel for the petitioner has also failed to invite my attention towards any of the provisions of law, which violates on account of issuance of transfer order dated 29.06.2011. The contention of the learned counsel for the petitioner that several persons, who are on deputation with the Urban Improvement Trust and are still continuing and have not been repatriated but the petitioner has been transferred is also untenable as the petitioner being an employee of Urban Improvement Department cannot claim any parity with the employees of other department, who are working on deputation with UIT, Bikaner. From perusal of the impugned order dated 29.06.2011 (Annexure-1), it is not borne out that the same has been passed due to pressure of some political persons.

8. In the facts and circumstances of the case, I find no force in the writ petition. The writ petition is, therefore, dismissed. The ad-interim stay order dated 15.07.2011 is hereby vacated. Stay application No. 10688/2011 also stands dismissed.