

SOUTH EASTERN COALFIELDS LTD.

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v.

PREM KUMAR SHARMA AND ORS.

JULY 19, 2006

[ARIJIT PASAYAT AND LOKESHWAR SINGH PANTA, JJ.]

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*Land Acquisition :*

*Land totaling 0.72 decimal acquired—Claim of compensatory appointment on ground of being land loser—Entitlement—Held: Not entitled in terms of Guidelines dated 22.12.1984.*

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*Constitution of India, 1950 :*

*Article 14—Equal treatment—Illegality or irregularity committed by authority in favour of any individual or group of individuals—Held : Others cannot claim favour on the plea of equality—Wrong decision by the Government does not give a right to enforce the wrong order and claim parity or equality.*

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**Land totaling 0.72 decimal belonging to respondent was acquired. He filed Writ Petition before High Court claiming compensatory appointment on the ground that he was a land loser. High Court directed appellant to consider his case.**

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**In appeal to this Court, appellant contended that the entitlement to employment of a person whose land has been acquired is governed by the guidelines dated 22.12.1984. Since total land acquired in his case is .72 decimal, he is not entitled to any relief and the High Court should not have given the directions as done.**

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**Respondent No.1 contended that the norms fixed have not been uniformly followed and in several cases acquisitions were for lesser extents of land and they have been given employment. Several instances were highlighted.**

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**Allowing the appeal, the Court**

**HELD: 1. A bare perusal of the recommendations and the guidelines**

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A dated 22.12.1984 make the position clear that acquired area should be 3 acres of non-irrigated land or 2 acres of irrigated land. Because the acquired area is much less under the recommendation/guidelines, respondent was not entitled to any relief. [683-A-B]

B 2. The concept of equality as envisaged under Article 14 of the Constitution of India, 1950 is a positive concept which cannot be enforced in a negative manner. When any authority is shown to have committed any illegality or irregularity in favour of any individual or group of individuals, others cannot claim the same illegality or irregularity on the ground of denial thereof to them. Similarly wrong judgment passed in favour of one individual does not entitle others to claim similar benefits. His right must be founded upon enforceable right to entitle him to the equality treatment for enforcement thereof. A wrong decision by the Government does not give a right to enforce the wrong order and claim parity or equality. Two wrongs can never make a right. [683-C; 684-F]

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D *State of Bihar and Ors. v. Kameshwar Prasad Singh and Anr.*, [2000] 9 SCC 94, relied on.

*Gursharan Singh and Ors. v. NDMC and Ors.*, [1996] 2 SCC 459; *Secretary, Jaipur Development Authority, Jaipur v. Daulat Mal Jain and Ors.*, [1997] 1 SCC 35 and *State of Haryana and Ors. v. Ram Kumar Mann*, [1997] 3 SCC 321, referred to.

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 3041 of 2006.

From the Judgment and Order dated 12.4.2004 of the High Court of Madhya Pradesh at Jabalpur, in L.P.A. No. 180/2004.

F Jagdeep Dhankar, Aishwarya Bhati and K.S. Bhati for the Appellant.

K.C. Bajaj, Sandhya Bajaj, Himanshu Bajaj and Sanjeev Malhotra for the Respondents.

G The Judgment of the Court was delivered by

ARIJIT PASAYAT, J. Leave granted.

H Appellant calls in question legality of judgment rendered by a Division bench of the Madhya Pradesh High Court, Jabalpur Bench. Background facts leading to filing of the appeal are as follows :

Respondent No. 1—Prem Kumar Sharma filed a writ Petition before the High Court claiming appointment on the ground that he was a land loser. High Court by its order dated 8.8.2001 directed consideration by the sub-Divisional Officer. Since the sub-Divisional officer held that he was entitled to employment, a writ petition was filed by the appellant before the High Court. The High Court held that since the land of the respondent No. 1 had been acquired, he was entitled for compensatory appointment. The High Court gave the following directions:

“The petitioner is directed to extend the employment to the son/defendant as the case may be of respondent no.3, within a period of twelve months from today, on availability of first vacancy with the petitioner.

In case no vacancy arises within the period, the petitioner shall create a post for the employment, in this regard.”

Questioning correctness of the judgment, a Letters Patent Appeal was filed by the appellant before the Division Bench of the High Court. By the impugned judgment, the High Court modified the direction to the following extent:

“On due consideration of the submissions of the learned counsel for the parties, we direct the petitioner to consider the case of respondent No. 3 Prem Kumar Sharma for the employment to his son/dependent as the case may be whenever the vacancy arises.”

Learned counsel for the appellant submitted that the entitlement to employment of a person whose land has been acquired is governed by the guidelines dated 22.12.1984. The approved recommendations of the Committee constituted by the Government of India, Ministry of Energy, Department of Coal, evolving uniform guidelines for employment to the land losers stipulated that the person concerned should have lost either 3 acres of non-irrigated land or 2 acres of irrigated land. Admittedly, the total land acquired in the case of respondent No.1 is .72 decimal which the respondent No. 1 originally owned along with 10 others. Therefore, he is not entitled to any relief and the High Court should not have given the directions as done.

In response, learned counsel for the respondent No.1 submitted that the norms fixed have not been uniformly followed and in several cases acquisitions were for lesser extents of land and they have been given employment. Several

A instances have been highlighted. The appellant has filed affidavits indicating as to how those cases were not similar.

The guidelines which are undisputedly applicable read as follows:

B “The Government had earlier constituted a Committee to consider evolution of uniform guide-lines for providing employment to land-losers. The committee had submitted its report and the same has now been accepted by the Govt. subject to one amendment *vide* letter No. 55011/14/83-PIR/CP Dated 17th November, 1984. Copy enclosed. The approved uniform guideline is annexed with this letter. You are requested to kindly ensure that these guidelines are implemented in your company.”  
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D In the approved recommendations of the Committee constituted by Government of India, Ministry of Energy, Deptt. of Coal evolving Uniform Guidelines for employment to the land losers, it has been *inter alia* stated as follows:

.....

E “(i) The standard norm should be one employment for 3 acres of non-irrigated land and 2 acres of irrigated land. The practice ECL should be brought at par with the practice in the other 3 Companies.

(ii) However, if the land loser being considered for employment is a matriculate or above, the norm may be reduced to 2 acres per person if he opts to join initially as an apprentice for a period of 2 years during which he may be paid a fixed stipend per month. His regulation will subsequently, be governed by the normal rules of the Company.

F (iii) For the purpose of employment the Unit will be land-owner/Raiyat whose title appears in the record of rights of the particular village and will include his direct linear dependent.

G (iv) The Committee deliberated on the point whether employment to land-loser should be accepted as a compulsory obligation of management of the coal Company, irrespective of the requirement of man-power. The Committee recommends that wherever possible, effort should be made to offer increased amount of compensation to the land-losers with a view to content the man-power unless the Company has the requirement of personnel in a particular category within the  
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sanctioned strength of the manpower.”

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A bare perusal of the recommendations and the guidelines make the position clear that acquired area should be 3 acres of non-irrigated land or 2 acres of irrigated land. Because the acquired area is much less under the recommendation/guidelines, respondent was not entitled to any relief. The other question is as to whether the respondent No. 1 was entitled to be appointed on the ground that some others have been appointed.

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The concept of equality as envisaged under Article 14 of the Constitution of India, 1950 (in short the ‘Constitution’) is a positive concept which cannot be enforced in a negative manner. When any authority is shown to have committed any illegality or irregularity in favour of any individual or group of individuals other cannot claim the same illegality or irregularity on ground of denial thereof to them. Similarly wrong judgment passed in favour of one individual does not entitle others to claim similar benefits. In this regard this Court in *Gursharan Singh & Ors. v. NDMC & Ors.*, [1996] 2 SCC 459 held that citizens have assumed wrong notions regarding the scope of Article 14 of the Constitution which guarantees equality before law to all citizens. Benefits extended to some persons in an irregular or illegal manner cannot be claimed by a citizen on the plea of equality as enshrined in Article 14 of the Constitution by way of writ petition filed in the High Court. The Court observed:

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“Neither Article 14 of the Constitution conceives within the equality clause this concept nor Article 226 empowers the High Court to enforce such claim of equality before law. If such claims are enforced, it shall amount to directing to continue and perpetuate an illegal procedure or an illegal order for extending similar benefits to others. Before a claim based on equality clause is upheld, it must be established by the petitioner that his claim being just and legal, has been denied to him, while it has been extended to others and in this process there has been a discrimination.”

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In *Secretary, Jaipur Development Authority, Jaipur v. Daulat Mal Jain and Ors.*, [1997] 1 SCC 35, this Court considered the scope of Article 14 of the Constitution and reiterated its earlier position regarding the concept of equality holding:

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“Suffice it to hold that the illegal allotment founded upon *ultra vires* and illegal policy of allotment made to some other persons

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A wrongly, would not form a legal premise to ensure it to the respondent or to repeat or perpetuate such illegal order, nor could it be legalised. In other words, judicial process cannot be abused to Perpetuate the illegalities. Thus considered. we hold that the High Court was clearly in error in directing the appellants to allot the land to the respondents.”

B In *State of Haryana & Ors. v. Ram Kumar Mann*, [1997] 3 SCC 321 this Court observed:

C “The doctrine of discrimination is founded upon existence of an enforceable right. He was discriminated and denied equality as some similarly situated persons had been given the same relief. Article 14 would apply only when invidious discrimination is meted out to equals and similarly circumstanced without any rational basis or relationship in that behalf. The respondent has no right, whatsoever and cannot be given the relief wrongly given to them, i.e., benefit of withdrawal of resignation. The High Court was wholly wrong in reaching the conclusion that there was invidious discrimination. If we cannot allow a wrong to perpetrate, an employee, after committing mis-appropriation of money, is dismissed from service and subsequently that order is withdrawn and he is reinstated into the service. Can a similarly D Circumstanced person claim equality under Section 14 for Reinstatement? The answer is obviously “No”.

E In a converse case, in the first instance, one may be wrong but the wrong order cannot be the foundation for claiming equality for enforcement of the same order. As stated earlier, his right must be founded upon enforceable right to entitle him to the equality treatment for enforcement thereof. A wrong F decision by the Government does not give a right to enforce the wrong order and claim parity or equality. Two wrongs can never make a right”. [See: *State of Bihar and Ors. v. Kameshwar Prasad Singh and Anr.*, [2000] 9 SCC 94].

G Above being the legal position, the learned Single Judge and the Division Bench were not justified in giving impugned directions. Their orders are accordingly set aside.

Appeal is allowed with no order as to costs.

D.G.

Appeal allowed.