

Uttarakhand High Court

Shashikant Singh vs State Of Uttarakhand & Anr on 17 September, 2020

Reserved Judgment

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition (S/S) No.862 of 2019

Shashikant Singh

.....Petitioner

versus

State of Uttarakhand & Anr.

....Respondents

Mr. B.D. Upadhyay, Senior Advocate assisted by Ms. Charanjeet Kaur, Advocate for the petitioner

Mr. P.C. Bisht and Mrs. Anjali Bhargava, Addl. C.S.C. Along with Mr. Sushil Vashishtha, Brief Holder for the State

Mr. Mohd. Husnain, Advocate holding brief of Mr. Vinay Bhatt, Advocate for respondent no.2

Hon'ble Lok Pal Singh, J.

Petitioner has approached this Court seeking the following reliefs:-

(i) Issue a writ, order or direction in the nature of certiorari to call for the record of the case and to quash the order/letter Prao Prao/2018-19/407 dated 04.03.2019 passed by respondent no.2 by which the respondent no.2 rejected the claim of the petitioner.

(ii) Issue a writ, order or direction in the nature of mandamus directing the respondents to provide employment to the petitioner in terms of the agreement executed between their forefather and sugar factory.

(iii) Issue a writ, order or direction in the nature of mandamus restraining the respondents from evicting the petitioner from the residential quarter allotted b the sugar factory.

2. Factual matrix of the case is that the Kisan Sahkari Chinni Mill Ltd., Rajpur Puranpur, Nadehi, Post Jaspur, District Nainital was established in the year 1974. At the time of establishment, some farmers provided their land for the Mill, in lieu whereof, they were given share in the respondent Mill as per the area of their land. Besides this, the land owners/shareholders and the respondent Mill were entered into an agreement whereby it was provided that on the basis of land provided, employment will be given to the farmer himself, his son/grandson as per their qualification in the factory. Petitioner contends that as per the condition of the agreement, each shareholder and his successor up to third generation will be entitled to get employment in the said Mill as per his qualification. The grievance of the petitioner is that he is the heir /member of one of such family whose land was acquired for the purpose of establishment of factory but he has been denied

employment by the respondent. Petitioner contends that though his father was employed in the respondent Mill and was retired on 07.05.2017 but as per the condition of agreement, he is also entitled to get employment in the Mill, which is being denied to him by the respondents. In this regard, several representations were made before the authorities but no heed was paid thereon. Lastly, petitioner's father moved a representation dated 12.12.2018 before respondent no.2 requesting to provide employment to the petitioner, which was rejected by the respondent vide order dated 04.03.2019.

3. Counter affidavit has been filed by the respondent no.2 stating that as per the agreement executed between shareholder Chandan Singh and the respondent Mill, employment was provided to two grandsons of Late Shri Chandan Singh. Petitioner is great grandson of shareholder Shri Chandan Singh and is therefore not entitled to get the employment.

4. Learned counsel for the petitioner submits that as per the agreement executed between the shareholder and the respondent Mill, the family of the shareholder is entitled to get employment upto three generations and as such the respondent Mill has wrongly denied employment to the petitioner. He further submits that at the time of execution of the agreement, neither the donor nor his son, were eligible for appointment on the ground of age bar, in the family of land donor, first employment was given to the two grandsons of the land donor. Thus, the petitioner is also entitled for employment in the sugar mill.

5. Per contra, learned counsel for respondent no.2 submits that as per the language and understanding of the agreement, either the son or grandson is entitled to get employment in the respondent Mill. He further submits that there is a stroke "/" between Purta (son) and potra (grandson) which means that either the son or the grandson would be provided the employment. He further submits that in the present case two grandsons of the shareholder Chandan Singh have already been provided employment, therefore, the petitioner who is the great grandson is not entitled to provide the employment. In order to buttress his submissions, learned counsel for respondent no.2 has placed reliance on the following decisions of different High Courts:-

(i) Hon'ble High Court of Madhya Pradesh 2014 (O) Supreme (MP) 455 in Election Petition No.10 of 2014 Rasal Singh v. Election Commission of India and others.

(ii) Hon'ble High Court of Judicature at Patna in Civil Writ Jurisdiction Case No.17210 of 2011 Awadesh Prasad vs. State of Bihar, decided on 25.07.2012.

(iii) Balsara Home Products v. Director General cited in 2006 (1 to 6) DLT 391.

6. I have heard learned counsel for the parties and perused the entire material available on record.

7. Indisputably, the land of the petitioner's grandfather was taken for the establishment of the sugar mill. No compensation was paid for the land acquired, instead a share certificate was issued to the land donor and a unilateral letter was written on behalf of the sugar mill which suggests that employment will be provided to the landowner, his son/grandson, as per their eligibility. It is also

undisputed that the original land donor and his son were not found suitable for employment and from the family of the land donor, first time employment was given to the two grandsons. As far as agricultural land is concerned, it caters the need of the families upto the future generations. But, in the instant case, on the one hand, the petitioner has been deprived of the land, whereas on the other, he is being denied employment by the respondent. The respondent no.2 Sugar Mill, which is an instrumentality of the State, should have considered the fact that the land owner who donated the land for establishment of sugar mill, their future generation should not be left starving. Being the grandson of the original land donor, the petitioner is fully entitled to be considered for employment in the Mill. The interpretation of the agreement by the respondent to the effect that either the son or grandson will be provided employment is unsustainable in the eyes of law. It is, accordingly, held that denial of employment to the petitioner by the respondent mill is arbitrary and illegal. Insofar as the judgments cited by learned counsel for respondent no.2 are concerned, the same are not applicable to the facts and circumstances of the present case and are, therefore, of no help to the respondent no.2.

8. In the light of aforesaid, writ petition is allowed. Impugned order/letter dated 04.03.2019 is hereby quashed. A mandamus is issued to the respondent no.2 to consider the case of the petitioner for employment, as per his eligibility, within a period of three months from today.

9. No order as to costs.

(Lok Pal Singh, J.) 17.09.2020 Rajni