

Smt. Maya Devi and ors. Vs. State of Rajasthan and ors.

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Court : Rajasthan

Decided On : Mar-20-1987

Reported in : AIR1988Raj15; 1987(1)WLN625

Judge : M.C. Jain and; K. Bhatnagar, JJ.

Acts : Rajasthan Industrial Areas Allotment Rules, 1959 - Rule 11; Rajasthan Land Revenue Act, 1956 - Sections 92

Appeal No. : Civil Writ Petn. No. 1710 of 1986

Appellant : Smt. Maya Devi and ors.

Respondent : State of Rajasthan and ors.

Advocate for Def. : B.R. Arora, Adv.

Advocate for Pet/Ap. : M.L. Garg, Adv.

Disposition : Petition allowed

Judgement :

M.C. Jain, J.

1. This writ petition is directed against the order of the Collector dated 3-6-86 whereby non-petitioner No. 4's revision petition was allowed and the order of the Gram Panchayat, Goluwala Niwadan dated 4-7-85 was quashed and set aside on

the basis that under Rule 11 of the Rajasthan Industrial Areas Allotment Rules, 1959 (for short 'the Rules' hereinafter), the powers vests in the Collector and not in the Gram Panchayat. The petitioner moved the Panchayat for starting an oil mill on 4-6-85. Notice was issued by the Gram Panchayat inviting objections. A month's period was given for filing objections and on 4-7-85, the Gram Panchayat issued No Objection Certificate. The petitioner also obtained registration of the unit from the District Industries Officer. A provisional registration certificate was issued. The Rajasthan Financial Corporation also sanctioned a sum of Rs. 1,00,000/- as loan for construction of the industrial unit by the petitioner. Non-petitioner No. 4 raised an objection and an appeal was preferred against the No Objection Certificate issued by the Panchayat to Panchayat Samiti, Suratgarh, but the same was dismissed. Thereupon, the non-petitioner No. 4 approached the Collector Under Section 27 (kha) of the Rajasthan Panchayat Act, 1953 in revision.

2. The sole ground on which the learned Collector set aside the order of the Gram Panchayat is that Gram Panchayat has no jurisdiction and the jurisdiction vests under Rule 11 of the aforesaid Rules in the Collector. We have perused Rule 11. Rule 11 has no application to the land in question. It applies when no area of land has been reserved or set apart Under Section 92 of the Rajasthan Land Revenue Act but for applicability of Rule 11, the land should be the land of the State and in respect of which negotiations had to be conducted by the industrialists so that as a result of negotiations, he may purchase the land for a reasonable price. Negotiations can be conducted in respect of the land, which has been approved by the Collector for the industrial purpose. Admittedly, the land in question is owned by the petitioner. No question of approval is necessary for the present land, the title of which vests in the petitioner. It is only the question of user of the land for a certain purpose as the industrial purpose. Rule 11, therefore, applies to such land, which is not owned by individuals. The view of the learned Collector that the Collector has power Under Rule 11 to grant sanction for setting up of an industry, is mis-conceived. If a person who owns the land, in abadi area intends to set up an industry, Rule 11 is not at all attracted. It is only on the issuing of the 'No Objection Certificate' the petitioner approached the concerned authority, the District Industries Officer for registration. The Gram Panchayat possesses the administrative powers mentioned in the III Schedule. In item IX, there is a mention

of the power with regard to the promotion, improvement and encouragement of cottage and village industries for which Panchayat may make provisions. The Panchayat is also empowered to make provision in connection with sanitation and health. In view of these administrative powers. No Objection Certificate has been issued by the Panchayat. Thus, we do not find any illegality in the grant of 'No Objection Certificate' by the Panchayat. If any legal right of the non-petitioner No. 4 is infringed or any sort of legal injury is being caused to him, it would be open to him to agitate that matter by availing a legal remedy but so far as the impugned order of the Collector is concerned, that cannot be sustained as the same is based on a provision, which does not at all confer any power or authority on the Collector. So, the order of the Collector deserves to be set aside.

3. In the result, this writ petition is allowed with the above observations and the order of the Collector is set aside. Parties to bear their own costs.

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