

Parshotam Lal Vs. State and Three ors.

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Court : Jammu and Kashmir

Decided On : Sep-12-2003

Reported in : 2004(2)JKJ628

Judge : S.K. Gupta, J.

Acts : [Constitution of India](#) - Article 226

Appeal No. : SWP 142/2003

Appellant : Parshotam Lal

Respondent : State and Three ors.

Advocate for Def. : B.S. Salathia, Addl. Adv. General

Advocate for Pet/Ap. : J.S. Kotwal, Senior Adv. and; K.M. Bhatti, Adv.

Judgement :

S.K. Gupta, J.

1. Petition is admitted to be heard and taken up for final disposal with the consent of the learned counsel for the parties.

2. Petitioner has preferred this petition seeking issuance of a writ in the nature of mandamus commanding the respondents to appoint the petitioner to the post of class-IV employee in the Animal Husbandry Department. It is stated that a piece of

land aggregating ten marlas was taken by the Animal Husbandry Department from the father of the petitioner for the construction of building for Dairy Development Society, on the promise that the petitioner would be employed as class-IV employee. The sole grievance of the petitioner is that neither compensation has been paid nor the job has been offered to the petitioner in lieu of the land taken by the respondents. According to petitioner, his case was recommended by the Department and on the directions of the Minister, was also processed, but no appointment order was issued in his favour till date.

3. The respondents in their objections admitted that the land was taken from the petitioner for construction of a building for Dairy Development Society in village Mangnar, District Poonch. It was, however, denied that any promise was made to provide any employment to the petitioner in lieu of the land donated by him. It is further stated that even the recommendation made by an Officer and direction given by a Minister to process the case of the petitioner for appointment, does not vest any right, much less legal right, in favour of the petitioner to give the appointment dehors the Rules. That there being no assurance or commitment made by the Government for appointment in lieu of the land taken by the Government, the respondents are not bound by doctrine of Promissory Estoppel.

4. The case of the petitioner is that the respondents wanted a land for constructing a building for Dairy Development Society in village Mangnar, and no one was coming forward to offer the land for this public purpose. Officers in the Animal Husbandry Department approached the father of the petitioner and offered him to employ his son as class-IV Government servant, in case the petitioner's father is willing to give ten marlas of land for the said purpose. The sole grievance of the petitioner is that the respondents have backed out from their promise and assurance and, thus, occasioned injustice to him, which compelled him to approach the Court for the grant of relief.

5. Mr. J.S. Kotwal, learned senior counsel appearing for the petitioner, vehemently urged that the petitioner can not be deprived of his land in the manner it has been done. His father has offered the land on the assurance of the respondents to provide a job as class IV employee to his son in the Government. That the

respondents are under a legal obligation to fulfil their assurance and promise.

6. It is not in dispute that the land of the petitioner was taken by the Department and a building for Dairy Development Society has been constructed. It is not in dispute that compensation has not been paid to the petitioner for the land taken by the respondents till date. Ordinarily, no body would part with an inch of land without consideration and/or if he parts with, he will do so only on some assurance/promise extended to him in lieu of the land, as has been done in this case of the petitioner. Petitioner has alleged in unequivocal terms with regard to the acquisition of land by the respondents on the promise of providing job as class-IV employee in the Department in lieu thereof. This fact is fully borne out from the communication by Chief Animal Husbandry Officer, Poonch to the Director, Animal Husbandry Department, Jammu (Annexure-B to the Writ Petition). It is clearly recited that ten marlas of land has been donated by the father of the petitioner free of cost for construction of a building for Dairy Development Society and it becomes obligation of the respondents to absorb his son in the Department as class-IV employee. This itself is sufficient to dispel the plea taken by the respondents in their demurrer of having not given any such assurance and promise regarding absorption of the petitioner in the Department as class-IV employee.

7. The petition is, accordingly, allowed and by a writ of mandamus, respondents are directed to appoint the petitioner as class-IV employee in the Department or on some other available vacancy in the village. This shall be done within a period of two months from the date, a certified copy of the judgment is provided by the petitioner to the respondents.

8. The petition is disposed of with the aforesaid direction along with all connected CMPs.