

Shri Raghunandan Panda

Vs

State of Orissa and Others

Civil Appeal No. 1790 (N) of 1974

(CJI A. N. Ry, K. K. Mathew, N. L. Untwalia JJ)

19.11.1974

JUDGMENT

UNTWALIA, J. -

1. In this appeal filed on grant of special leave by this Court, the appellant challenges the decision of the Orissa High Court dismissing a writ application of the appellant. He had prayed for the quashing of the order of the Revenue Authorities leasing out in favour of respondent No. 3 a Nazul plot in the town of Sambalpur in the State of Orissa and to set aside the registered lease dated December 3, 1970 executed pursuant to the order aforesaid. It was asserted by the appellant that the lease in favour of the third respondent was not in accordance with the Orissa State Urban Land Settlement Rules of 1959 - hereinafter called the rules. The Bench of the High Court disposing of the writ petition has taken the view following an earlier Bench decision of the same court that the rules are administrative and a writ does not lie for non-compliance with any of them. In the opinion of the High Court, therefore, it was not necessary to examine the respective stands of the parties to challenge the grant of the lease to respondent No. 3 and its non-grant to the appellant.

2. Learned Counsel for the appellant submitted that the view of the High Court is erroneous in law. Even administrative rules were meant to be observed and followed. Grant of lease to respondent No. 3 being contrary to the requirement of the rules, Counsel submitted, the order of the Revenue Authorities and the consequent execution of the registered lease was arbitrary, void and illegal.

3. It has been pointed out by a division Bench of this Court to which one of us was a party in the case of Union of India v. K. P. Joseph ((1973) 2 SCR 752 : (1973) 1 SCC 194, 196) that "Generally speaking an administrative order confers no justiciable right but this rule like all other general rules is subject to exceptions". Some decisions of this Court to illustrate the exceptions have been noticed thereafter in the judgment at page 755. It has been pointed out further "to say that an administrative order can never confer any right would be too wide a proposition. There are administrative orders which confer rights and impose duties". In this case, however, it is difficult to accept the argument put forward on behalf of the appellant that the rules confer any rights on him. No person has a vested right to get any lease of the Government land; of course, he has got a right to get his application for lease disposed of fairly and not arbitrarily. If, therefore, it could be held in favour of the appellant that his claim for lease of the plot in question was capriciously, arbitrarily and unfairly rejected and that the lease granted to respondent No. 3 was arbitrary and unfair a case could be found in his favour. But on examination of the facts which were simple advisedly we did not remit the case back to Orissa High Court for its examination and proceeded to dispose of this appeal ourselves. In the judgment of the High Court is found mentioned that the Nazul Committee had rejected the application of the appellant and ultimately accepted that of the third respondent. The

facts of the case placed before us were not such as to lead to the conclusion that the decision of the Revenue Authorities was unfair, capricious or arbitrary. The appellant had a house of his own by the side of the plot in question. On the other hand the third respondent had no house in the town of Sambalpur. He required the plot for constructing a house wherein was also to be located as per terms of the lease a medicine shop to cater the needs of the public during day and night - all the 24 hours. The land was reserved under Rule 4(b) for middle class people having no house site or inadequate accommodation. Whether the third respondent came within the category of people for whom the land was reserved was a question of fact within the domain of the administrative authorities to determine. No rule was violated if the authorities concerned took into consideration the benefit to and the needs of the public in general of getting supply of medicine at all time during day and night. Interference with the order and action of the Revenue and Administrative authorities could follow, as we have said above, only if they could be found to be unfair, capricious or arbitrary. We are not satisfied that on the facts of the case they were so. The appeal accordingly fails and is dismissed but in the circumstances without costs.

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