



2025:CGHC:29652

**AFR**

**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**Writ Petition (S) No. 4156 of 2017**

**Order reserved on : 17.06.2025**

**Order delivered on : 01.07.2025**

Smt. Nirmala Devi W/o Dwarika Prasad Tiwari Aged About 52 Years 400/220, K. V. Power Grid, Sub Station Bhatapara, Village Aalesur, Post Gurra, Police Station Bhatapara, Tahsil Bhatapara, District Baloda Bazar, Chhattisgarh.

**... Petitioner**

**versus**

1. South Eastern Coal Fields Limited Through Chairman Cum Managing Director, Office At S. E. C. L. Head Quarters, Seepat Road, Bilaspur, Chhattisgarh.
2. Chief General Manager, Gevra Area, South Eastern Coal Fields Limited, Gevra Project, District Korba, Chhattisgarh.
3. Deputy General Manager, Mines Mines Manager, Gevra Project, South Eastern Coal Field Limited, District : Korba, Chhattisgarh.

4. Senior Manager Personnel South Eastern Coal Fields, Limited, Gevra Project, District Korba, Chhattisgarh., District : Korba, Chhattisgarh

**... Respondents**

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For Petitioner	: Mr. Alok Bakshi with Ms. Kusum Lalchandani and Mr. Shivansh Gopal, Advocates
For Respondents	: Mr. Sudhir Bajpai, Advocate

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**SB- Hon'ble Shri Justice Sanjay K. Agrawal**  
**C.A.V. Order**

1. This writ petition under Article 226 of the Constitution of India is directed against order dated 06/07/2017 (Annexure P/1) passed by respondent No. 2 by which claim of the petitioner for grant of employment to her son in lieu of acquisition of her land has been rejected on two grounds, firstly, that the land acquired by the respondent SECL was not mutated in her name on the date of issuance of notification dated 19/10/1981 published on 07/11/1981 under Section 9 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (hereinafter, "the Act of 1957") and secondly, that petitioner's son namely Umesh Kumar Tiwari was born much later after the date of acquisition on 30/01/1985 and thus, he was not

petitioner's dependent on the date of acquisition, therefore, employment cannot be granted to him.

**2.** The aforesaid challenge has been made on the following factual backdrop :-

(i) This case has checkered history and this is the third round of litigation. On the basis of notification dated 19/10/1981 published on 07/11/1981 under Section 9(1) of the Act of 1957, petitioner's land bearing khasra No. 704/4 area 0.21 acre situated at village Dipka was acquired for the public purpose of respondent SECL and compensation regarding the same was paid to her on 11/09/1985 accepting her to be the title-holder of the said land without any demur or objection, however, no employment was granted to her but she came to know that the respondents had granted appointment to one Nand Kishore Jaiswal by order dated 10/05/1993 who had been impersonating to be her son.

(ii) Petitioner then filed a representation before the respondent SECL that Nand Kishore Jaiswal had impersonated to be her son and has got employment in lieu of acquisition of her land fraudulently but since no action was taken by the respondents, petitioner filed a writ petition before this Court bearing Writ Petition No. 2621/2001 which was finally disposed of by this Court by

order dated 10/03/2016 with a direction to the respondents SECL to conduct an inquiry against the said Nand Kishore Jaiswal as well as to keep a post vacant for her son.

(iii) Accordingly, matter was considered by the respondents and pursuant to inquiry, it was found that the said Nand Kishore Jaiswal had fraudulently obtained employment in lieu of acquisition of petitioner's land and by order dated 20/22.10.2016, he was dismissed from service, however, no further objection was taken.

(iv) Thereafter, petitioner filed a representation before the respondents SECL for grant of employment to her son but it was not considered after which she again filed a writ petition before this Court bearing Writ Petition No. 2452/2015 whereby direction was given by this Court to the respondents SECL to take a decision upon petitioner's claim for grant of employment to her son expeditiously by order of this Court dated 26/05/2017.

(v) Ultimately, the respondents considered the case of the petitioner and by impugned order dated 06/07/2017 (Annexure P/1) rejected her claim for employment on two grounds as stated herein-above holding firstly, that on the date of the notification dated 19/10/1981 which was published on 07/11/1981 under Section 9 of the Act of

1957, petitioner was not the bhoomiswami of the acquired land as her name got mutated in the records later on 07/07/1982 and secondly, that her son can also not be granted employment because on the date of acquisition of the said land, he was not born and thus, was not a dependent of the petitioner.

- 3.** Mr. Alok Bakshi, learned counsel for the petitioner, would submit that admittedly, petitioner was the bhoomiswami of the land bearing khasra No. 704/4 area 0.21 acre situated at village Dipka on the date of acquisition as compensation was paid to her on 11/09/1985 by the respondents SECL themselves accepting her to be the title-holder of the said land, therefore, they ought not to have rejected petitioner's claim on the ground that she was not the bhoomiswami of the acquired land on the date of the acquisition. He would further submit that employment had been given by the respondents to one Nand Kishore Jaiswal fraudulently in lieu of petitioner's acquired land which was put to challenge by the petitioner and ultimately, he was dismissed from service, therefore, respondent SECL is bound by the principle of estoppel and at this stage, they cannot refuse to grant employment to petitioner's son as there is no dispute that one member of petitioner's family is entitled for employment on the basis of rehabilitation

policy as applicable on the date of the acquisition, as such, the impugned order is liable to be set aside. He would rely upon the decision rendered by the High Court of Jharkhand in the matter of **Gunaram Murmu v. State of Jharkhand and others**<sup>1</sup> to buttress his submission.

4. On the other hand, Mr. Sudhir Bajpai, learned counsel for the respondents, would support the impugned order and submit that on the date of acquisition, petitioner was not the bhoomiswami of the acquired land as her name got mutated in the records later on 07/07/1982 and since she was not the bhoomiswami of the said land on the date of the issuance of notification dated 19/10/1981 under Section 9 of the Act of 1957 which was published on 07/11/1981, no member of her family is entitled for employment. In addition to that, petitioner's son namely Umesh Kumar Tiwari was born on 30/01/1985 after the date of issuance of the aforesaid notification, therefore, he can not be granted employment and the instant writ petition is liable to be dismissed. He would rely upon the decisions rendered by the Supreme Court in the matters of **M/s Edelweiss Asset Construction Company Limited v.**

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1 2024 SCC Online Jhar 1672

**R. Perumalswamy and others<sup>2</sup> and Union of India v. Shivkumar Bhargava<sup>3</sup>.**

5. I have heard learned counsel for the parties, considered their rival submissions made herein-above and went through the records with utmost circumspection.
6. It is not in dispute that petitioner's land bearing khasra No. 704/4 area 0.21 acre situated at village Dipka was acquired by competent authority for the public purpose of respondent SECL under the provisions of the Act of 1957 and in lieu of the acquisition of land, the respondents SECL had two obligations; first to make payment of compensation which was admittedly paid by the respondents to the petitioner on 11/09/1985 without any protest or demur accepting that petitioner is the owner of the land in question and second to grant employment to any member of petitioner's family as per the rehabilitation policy which was also provided by them to one Nand Kishore Jaiswal who impersonated himself to be petitioner's son/relative, however, pursuant to the order dated 10/03/2016 passed in writ petition No. 2621/2001 filed by the petitioner, whereby this Court had directed the respondent SECL to make inquiry against the said Nand Kishore Jaiswal and to consider petitioner's claim, the

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2 AIR 2020 SC 3688

3 1995 AIR SCW 595

respondents though ultimately dismissed said Nand Kishore Jaiswal from service by order dated 20-22/10/2016 after finding him guilty of obtaining employment in lieu of petitioner's acquired land by practising fraud, but did not take any action with regard to granting petitioner's claim of providing employment to her son namely Umesh Kumar Tiwari. Thereafter again petitioner moved to this Court and filed second writ petition No. 2452/2017 wherein by order dated 26/05/2017, this Court directed the respondents SECL to consider and decide petitioner's claim expeditiously and ultimately, by the impugned order dated 07/07/2017 (Annexure P/1), petitioner's claim has been rejected by the respondents primarily on two grounds, as stated in the earlier paragraphs.

- 7.** The first finding recorded by the respondents SECL in the impugned order (Annexure P/1) for rejecting petitioner's claim appears to be wholly unacceptable as the land in question was acquired by the competent authority and due compensation has already been paid by them to the petitioner on 11/09/1985 holding her to be the owner of the acquired land and prior to the impugned order, no such dispute has been raised by the respondents herein with regard to petitioner's title and ownership over the



acquired land and subsequent mutation, if any, would not make any dent upon the case of the petitioner.

- 8.** It is well-settled position of law that besides title, mutation is an evidence of possession and mutation of property in revenue records neither creates nor extinguishes title to the property nor has it any presumptive value on title. It is simply an evidence of possession over the land. As such, in the instant case, merely because mutation has taken place after the date of acquisition and after the issuance of the notification under Section 9 of the Act of 1957, it would have no adverse effect on petitioner's title over the subject land and it would regularize her title by mutation, as respondents have also paid compensation to her admitting her to be the title-holder of the acquired land. Therefore, on this ground, petitioner's claim for grant of employment as per rehabilitation policy cannot be refused, particularly when the respondent SECL is beneficiary and upon acquisition of petitioner's land, compensation has already been paid to her, as such, this ground raised by the respondents in the impugned order (Annexure P/1) that since petitioner's name was not mutated in the records on the date of issuance of notification under Section 9 of the Act of 1957 i.e. on 19/10/1981 which was published on 07/11/1981, she was not the owner of the acquired land,

is totally untenable and the impugned order is liable to be quashed.

9. The second finding recorded by the respondents SECL, that petitioner's son namely Umesh Kumar Tiwari, who has been nominated by the petitioner for grant of employment in lieu of acquisition of her land was born on 30/01/1985 i.e. after the date of acquisition and was not her dependent on the said date and cannot be granted employment, also cannot sustain as it is the respondents who had committed a blunder in granting employment to one Nand Kishore Jaiswal who impersonated himself to be petitioner's son/close relative and pursuant to the direction given by this Court in order dated 10/03/2016 passed in writ petition No. 2621/2001, the respondents inquired into the matter and after finding said Nand Kishore Jaiswal guilty of practising fraud, dismissed him from service by order dated 20-22/10/2016. Thereafter, petitioner again filed an application before the respondents for grant of employment to her son but since the respondents did not take any action, petitioner again filed writ petition No. 2452/2017 before this Court wherein direction was issued to the respondents SECL to consider petitioner's case expeditiously and ultimately, after examining the case of the petitioner, her claim has been rejected by the

impugned order (Annexure P/1). The respondents SECL ought to have offered employment to the petitioner right in time and at that time, the petitioner could have nominated herself or any other member of her family. Merely because petitioner's son was not born on the date of acquisition of the land in question, her claim cannot be rejected now as that would give an unfair advantage to the respondents SECL and they cannot be allowed to take advantage of their own wrong as petitioner's case was not considered for grant of employment on the date of acquisition of her land and the respondent SECL wrongly granted employment to one Nand Kishore Jaiswal, who was dismissed pursuant to the order passed by this Court in the writ petition filed by the petitioner herein and petitioner's case for employment came to be considered for the first time on 06/07/2017 by the respondent SECL i.e. the date on which the impugned order (Annexure P/1) was passed thereby, rejecting her claim and as on this date, petitioner's son had already become major, therefore, the claim of the petitioner could not have been rejected on 06/07/2017 on totally non-existent ground.

- 10.** The respondent SECL is a subsidiary company of Coal India and is a public sector undertaking within the meaning of Article 12 of the Constitution of India and

therefore, it is their duty to act fairly and reasonably. The Supreme Court, in the matter of **Mohan Mahto v. Central Coal Field Ltd. and others**<sup>4</sup>, has frowned upon Central Coalfields Ltd, which is also a subsidiary company of the Coal India and has held that public sector undertaking is the State within the meaning of Article 12 of the Constitution of India and therefore, it must act fairly and reasonably. It was observed as under :-

“17. It is neither in doubt nor in dispute that the case for grant of compassionate appointment of a minor was required to be considered in terms of Sub-clause (iii) of Clause 9.5.0 of the N.C.W.A.V. In terms of the said provision, the name of the appellant was to be kept on a live roster. He was to remain on the live roster till he attained the age of 18 years. Respondents did not perform their duties cast on them thereunder. It took an unilateral stand that an application has been filed in the year 1999 in the prescribed form. For complying with the provisions of a settlement which is binding on the parties, bona fide or otherwise of the respondent must be judged from the fact as to whether it had discharged his duties thereunder or not. In this case, not only it failed and/ or neglected to do so, but as indicated hereinbefore it took an unholy stand that the elder brother of the appellant being employed, he was not entitled to appointment on the compassionate ground. Thus, what really impelled the respondent in denying the benefit of compassionate appointment to the appellant is, therefore, open to guess. We expect a public sector undertaking which is a 'State' within the meaning of Article 12 of the Constitution of India not only to act fairly but also reasonably and bona fide. In this case, we are satisfied

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4 (2007) 8 SCC 549

that the action of the respondent is neither fair nor reasonable nor bona fide.”

11. In view of the aforesaid legal discussion, I have no hesitation to hold that the action of the respondents SECL in denying appointment to the petitioner/her nominee, after having made acquisition of her land and after having made payment of compensation to her without any protest or demur clearly admitting her title and also after committing a blunder and granting appointment to one Nand Kishore Jaiswal who was not at all related to the petitioner, is clearly illegal and arbitrary and smacks *mala-fide*. The respondents have acted unfairly and unreasonably which ought not have been done by a public sector undertaking which is a State under Article 12 of the Constitution of India. At the time of acquisition, the respondents SECL had clearly promised payment of compensation as well as grant of appointment to the titleholder of the land or any member of their family as per their rehabilitation policy but though they have paid compensation to the petitioner, they have refused to fulfill their promise of grant of appointment which is hit by the doctrine of “Promissory Estoppel”. In view of the discussion made herein-above, the decisions relied upon by learned counsel for the respondents in the matters of **M/s Edelweiss Asset Construction Company Limited** (supra)

and **Shiv Kumar Bhargava** (supra) are clearly distinguishable from the facts of the present case and would not be applicable herein.

- 12.** Consequently, the impugned order dated 06/07/2017 (Annexure P/1) is hereby quashed. The respondents are directed to consider petitioner's case as on 06/07/2017 i.e. the date on which she was first denied appointment by SECL and her son be granted appointment and he will be entitled for the consequential benefits w.e.f. 06/07/2017.
- 13.** Accordingly, this writ petition is allowed to the extent indicated herein-above.

Sd/-  
**(Sanjay K. Agrawal)**  
**Judge**

Harneet