

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.3511 OF 2004

STATE OF M.P. AND ORS.

Appellant (s)

VERSUS

NILENDRA PRATAP SINGH

Respondent(s)

WITH C.A.Nos.3512 to 3517 of 2004, 3521 to 3535 of 2004, 3537 to 3541 of 2004, 3543 to 3564 of 2004, 3566 to 3573 of 2004, 3577 to 3583 of 2004, 3588 to 3592 of 2004, 3594 to 3613 of 2004, 3614 to 3617 of 2004, 3619 to 3624 of 2004, 3565, 3593, 3618, 3584 to 3587, 3625, 3518 to 3520/2004.

ORDERC.A.No.3625/2004:

Delink and list separately.

Rest of the appeals:

These are appeals by the State of Madhya Pradesh. The appellant State had allotted *charnoi* land to landless persons belonging to Scheduled Caste and Scheduled Tribes. According to the appellant, this was done as part of the implementation of the mandate contained under Article 46 of the Constitution of India. Various persons belonging to non-S.C./S.T.s filed writ petitions before the High Court of Madhya Pradesh alleging that the allotment of land exclusively to S.C.s/S.T.s was not proper and similar extend of land should be allotted to such persons. The High Court, by the impugned judgment, has held that the classification made by the State was not proper and others were also entitled to get allotment of land and ultimately the High

Court has directed that the State shall endeavour to arrange land allotment equivalizing land allotted to the S.C.s/S.T.s and the unoccupied land shall thus be allotted to such persons. Though notice was served on the respondents, nobody has appeared when the case was called out. The appellant State has filed an affidavit on 29.1.2007 to the effect that the charnoi land is not going to be distributed to the landless persons under the Circular issued by the Revenue Department of the State Government earlier. On 13th October, 2008 the State Government has filed another affidavit, para 4 of which is quoted below :

“4. That the State Govt. has received several proposals wherein difficulties have been expressed and requests have been made for allotment of Nistar land including Charnoi for using the same for public utility purposes like construction of roads, State highways, national highways, canals, tanks, hospitals, schools, colleges, Goshalas and Abadi etc. Several villages are included in urban areas governed by M.P.Municipality Act and M.P.Municipal Corporation Act. Land recorded as Nistar including Charnoi land in such villages is not being used as Nistar and that such land is also required for various public utility projects in public interest and often no other appropriate government land is available for such projects. Realizing these difficulties, the State Govt. has reconsidered the matter and the following decisions have been taken -

- (i) Total land reserved for Charnoi will not be reduced below 2% in any village;
- (ii) Land reserved for Charnoi shall not be diverted and allotted to any one for agriculture purpose;
- (iii) The Charnoi land in excess of prescribed 2% and also land recorded under any other head of Nistar Patrak may be allotted in public interest for construction of roads, State highways, national highways, canals, tanks, hospitals, schools, colleges, Goshalas and Abadi and any other public utility projects as may be determined by the State Government.”

In the said affidavit it was stated that the Charnoi land will not be reduced below 2% in any village and such land in

excess of 2% and also the land recorded under any other head of Nistar Patrak may be allotted for public interest for construction of roads, State highways, national highways, canals, tanks, hospitals, schools, colleges, Goshalas and Abadi and any other public utility projects as may be determined by the State Government. Learned counsel appearing for the State Government has submitted that in view of this change, the State would not be in a position to comply with the direction of the High Court. In view of this undertaking/statement and fresh policy decision of the Government, the direction of the High Court about land allotment is modified and the appeals are disposed of accordingly. No costs.

NEW DELHI;
FEBRUARY 5, 2009.

.....CJI.
(K.G. BALAKRISHNAN)

.....J.
(P. SATHASIVAM)

