

CASE NO.:
Appeal (civil) 2869-2876 of 2005

PETITIONER:
Hindustan Zinc Ltd

RESPONDENT:
Bhagwan Singh Bhati & Ors

DATE OF JUDGMENT: 10/03/2008

BENCH:
Dr. ARIJIT PASAYAT & P. SATHASIVAM

JUDGMENT:
J U D G M E N T

CIVIL APPEAL Nos. 2869-2876 OF 2005
with
Civil Appeal No. 7424/2005

Dr. ARIJIT PASAYAT, J

1. Challenge in these appeals is to the order passed by a Division Bench of the Rajasthan High Court dismissing the Civil Special Appeals filed by the appellant. The appeals were directed against the order of learned Single Judge dated 25.10.1999.

2. The respondents had filed the writ petitions seeking directions to the present appellants for giving employment to members of the families of persons whose lands were acquired at the instance of appellant M/s. Hindustan Zinc Ltd. According to them, there was an agreement with the company whereby the company had agreed to give compensation for the land acquired and also to give employment to one member of the family of the land owners.

3. The learned Single Judge taking note of the submissions of the company that there was no such agreement for giving employment but in view of the policy some preference was to be given, disposed of the writ petitions. It was the stand of the company that the only direction that is to be given was to consider cases of the writ petitioners in consonance with the applicable rules of the company. The High Court referred to an earlier order and allowed the special appeals.

4. Stand of the present appellant was that there was no such agreement as contended. In fact the document which has been produced to project the claim that there was any agreement to give employment as claimed was a doctored one. The Division Bench did not attach any importance to the same and directed that in view of the earlier decision dated 21st November, 1996, the Writ Petitioners were entitled to the relief claimed.

5. In support of the appeals, learned counsel for the appellant submitted that two types of agreements were entered into for acquisition of land. One category related to the land acquired for the plant and the other for the residential

colonies. So far as the land acquired for plant is concerned there was a specific clause i.e. Clause 6 which read as follows:
"Those cultivators whose land is being acquired, one member of the family of that cultivator or his legal heirs shall be given employment according to his qualification by Hindustan Zinc in its Institution."

6. It is pointed out that so far as the land acquired for the residential colonies is concerned there was no stipulation and fraudulently a para was inserted which did not even bear the signature of any representative of the company. Though this document was produced before the High Court, the same was totally ignored. It is further pointed out that even for the lands acquired for the plant is concerned, if one family member has been given employment, no further claim can be entertained. The High Court did not also take note of the fact that the writ petitions were filed after about a decade. The land was acquired sometime in 1988 whereas the writ petitions were filed in 1998. In view of the Central Government's directives, employment can be given only as per the guidelines. The High Court has completely lost sight of these facts.

7. In response, learned counsel for the respondents submitted that since in one case relief has been granted by application of parity, the respondents were also entitled to similar relief.

8. It appears that various points urged by the appellant have not been taken note of; more particularly the stand that the document relied upon i.e. the purported agreement was a fabricated one and there was an insertion unauthorizedly by manipulation. It is to be noted that the factual scenario of the order on which the Division Bench of the High Court placed reliance was rendered in a factually different scenario. It is also stated that reliance should not have been placed on the order in a routine manner.

9. The High Court has not indicated as to how the factual scenario is similar. No finding has also been recorded on the stand that the writ petition not only was belated but also was founded on a fabricated document. It is therefore appropriate to set aside the impugned order of the High Court and remit the matter to it for fresh consideration in accordance with law. The High Court is requested to explore the possibility of disposing of the appeal by the end of July, 2008.

10. The appeals are allowed to the aforesaid extent.