

Hindustan Petroleum Corporation Ltd vs Yashwant Gajanan Joshi And Ors on 5 December, 1990

Equivalent citations: 1991 AIR 933, 1990 SCR SUPL. (3) 434, AIR 1991 SUPREME COURT 933, 1991 AIR SCW 208, 1991 (1) UJ (SC) 259, 1991 (2) SCC(SUPP) 592, 1991 UJ(SC) 1 259, 1991 SCC (SUPP) 2 592, (1991) 1 COM LJ 382, (1991) 1 JT 38 (SC)

Bench: N.M. Kasliwal, S.C. Agrawal

PETITIONER:

HINDUSTAN PETROLEUM CORPORATION LTD.

Vs.

RESPONDENT:

YASHWANT GAJANAN JOSHI AND ORS.

DATE OF JUDGMENT 05/12/1990

BENCH:

RANGNATHAN, S.

BENCH:

RANGNATHAN, S.

KASLIWAL, N.M. (J)

AGRAWAL, S.C. (J)

CITATION:

1991 AIR 933 1990 SCR Supl. (3) 434

1991 SCC Supl. (2) 592 JT 1991 (1) 38

1990 SCALE (2) 1208

ACT:

Petroleum and Minerals Pipeline (Acquisition of Right of User In Land) Act, 1962--Sections 2(a), 7 to 10--'Competent Authority' employee of contesting parties--Whether fit for appointment--Whether violative of principles of natural justice.

HEADNOTE:

The appellant corporation took steps under the Petroleum and Minerals Pipeline (Acquisition of Right of User in land) Act, 1962 for laying down pipelines for a project called the Bombay--Pune Pipeline Project. One Mrs. A.R. Gadre, Special Land Officer in the office of Competent Authority was appointed as competent authority by the Government of India.

One of the duties of the Competent Authority was to determine the compensation which would be payable to those whose proprietary rights were affected by laying down of pipes by the Corporation.

The respondent who was claiming compensation filed a petition in the High Court under Article 226 of the Constitution challenging the appointment of Mrs. Gadre as competent authority on the ground that the principles of natural justice required a feeling in both the parties that justice would be done as between them. The High Court allowed the writ petition and directed the Union of India to appoint another competent authority who shall not be an employee of the corporation.

Two special leave petitions were filed against the judgment of the High Court, one by the Corporation and the other by the Union of India.

Before this Court it was contended that the special leave petition filed by the Union of India was barred by limitation, and that the special leave petition filed by the Corporation was not maintainable, stood dismissed, because Union of India alone was the interested party.

On merits it was contended that (i) there was no question of the

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violation of any principle of natural justice nor there was any question of bias in case any employee of the corporation was appointed as competent authority under the Act; (ii) that there was no personal interest of the Competent Authority in the subject matter of the litigation, namely in the determination of compensation, and as such the principle that no person could be a judge in his own cause was not applicable in the present case; (iii) determination of compensation by the Competent Authority in the first instance was purely an administrative act by which the rights of the parties were not determined by the competent authority; and (iv) the provisions in this Act were analogous to those under the Land Acquisition Act, 1894 in which case the amount of compensation payable by the Government was, in the first instance, determined by the Officer of the Government itself.

On behalf of the respondent it was contended that (i) the determination of compensation by the competent authority was a quasijudicial act and not an administrative act; (ii) the persons or authorities appointed under various other Acts were appointed by virtue of their holding some office or post and their orders were appealable to the higher authorities; (iii) where a discretion was given to the Central Government for appointing the competent authority, then such discretion should not be exercised by appointing a person or authority who may be in the employment of the body or authority for whose benefit the pipelines were laid; (iv) while determining the question of bias the test was not whether in fact bias had affected the judgment but the test

always was and must be whether a litigant could reasonably apprehend that a bias might operate against him in the decision of the subject matter of the dispute.

Dismissing the appeal, this Court,

HELD: (1) In view of the fact that the High Court had removed Mrs. Gadre from acting as competent authority on the ground that she was an employee of the corporation and further given direction that any suitable person be appointed as competent authority but not an employee of the corporation, there was an independent cause of grievance to the corporation, and therefore the special leave petition could be filed by the corporation. [438D]

(2) No one shall be a judge in his own cause only means that he should not have personal interest in the cause he has to adjudicate. [441F]

(3) There is no provision in the Act prohibiting the Central Government to make an appointment of an employee of the Corporation as competent authority. [444G]

(4) The scheme of the Act shows that a competent authority has to discharge various and diverse duties under the Act. Such person becomes a better qualified and experienced person equipped with a proper background to decide the amount of compensation also. [444H-445B]

(5) A party is entitled to raise the ground of bias against the appointment of an individual officer as competent authority on sufficient material placed on record in this regard, but not merely because such competent authority was an employee of the Corporation. [445F]

(6) It would be too broad a proposition to extend the theory of bias to exclude a person only because such a person draws salary from the bodies like a public corporation, State Government or Central Government. It would altogether be a different matter if it was a case of a private employer and his employees. [445G-H]

Metropolitan Properties Co. Ltd. v. Lannon and Ors., [1968] 3 All England Reports 304; G. Sarana v. University of Lucknow & Ors., [1977] 1 SCR 64; International Airports Authority of India v. K.D. & Anr., [1988] 2 SCC 360, distinguished.

(7) In this case, compensation was decided by the Additional District Judge in favour of the respondent. Mrs. A.R. Gadre in her own name filed a writ petition challenging the legality of the award passed by the Additional District Judge.

(8) Taking in view the entire facts and circumstances of the case, the respondent was right in contending that Mrs. A.R. Gadre may have bias while determining the amount of compensation as she herself is a litigating party in this very matter in the High Court against the respondent. An apprehension thus in the mind of the respondent is well rounded and on this ground there is no justification to interfere with the order of the High Court holding that the

appointment of Mrs. Gadre was not valid. However, it does not mean an agreement with the general proposition of the High Court that an officer of the corporation cannot be appointed as a 'competent authority' because he may be biased in favour of the corporation by reason of his employment. [446C, E-G]

JUDGMENT: