

Assam Rifles Multi-Purpose ... vs Union Of India & Another on 1 May, 1989

Equivalent citations: 1990 AIR 111, 1989 SCR (2) 853, AIR 1990 SUPREME COURT 111, (1989) 2 JT 254 (SC) 1989 SCC (SUPP) 1 484, 1989 SCC (SUPP) 1 484

Author: R.S. Pathak

Bench: R.S. Pathak, M.H. Kania

PETITIONER:

ASSAM RIFLES MULTI-PURPOSE CO-OPERATIVESOCIETY LTD. & ANOTHE

Vs.

RESPONDENT:

UNION OF INDIA & ANOTHER.

DATE OF JUDGMENT01/05/1989

BENCH:

PATHAK, R.S. (CJ)

BENCH:

PATHAK, R.S. (CJ)

KANIA, M.H.

CITATION:

1990 AIR 111 1989 SCR (2) 853

1989 SCC Supl. (1) 484 JT 1989 (2) 254

1989 SCALE (1)1155

ACT:

Constitution of India, 1950: Article 32--Settlement of retired defence personnel, specially of Assam Rifles, in NEFA area--Directions issued.

HEADNOTE:

The petitioners, the Assam Rifles Multi-purpose Co-operative Society, and its Vice-Chairman a retired Military Officer, filed a writ petition in this Court praying for directions to the respondents for implementing the scheme, approved by the Government of India, for settling retired Defence Personnel, specially of the Assam Rifles, in the North Eastern Region. The petitioner asserted that in pursuance of this scheme, which assured the allotment of land,

grant of title-deeds in respect of the allotted land, facilities for movement by air, freedom to develop the allotted area, grant of advance by way of loans etc. and also provision of basic requirements of life for encouraging all-round economic development of the area, about 200 retired personnel with their families journeyed to the region and settled there.

The respondents, in their counter affidavits contended that funds had been set apart and basic facilities provided.

This Court, by its Order dated February 20, 1987, directed the Central Government to nominate a competent authority for examining the problem, and looking into the scheme and submitting a report to the Central Government to enable it to consider the same and take necessary steps for redressal of the petitioners' grievances. Accordingly, the Director General of Assam Rifles submitted to the Government his report, making a number of recommendations in support of the scheme to settle Assam Rifles Ex-servicemen and to ensure that the various facilities and concessions originally promised to them were provided. The Central Government considered the recommendations at an inter Ministerial meeting and took certain decisions and placed them before the Court.

After considering the report and decisions of the Government
854

thereon and submissions made by the parties, this Court,

HELD: The region constitutes part of Indian territory and is located on the Indian border with China and Burma. It is in the public interest and for the benefit of the public that settlement of Indian citizens should be encouraged in this area and the area should be suitably developed. [856A-B]

More than sufficient time has passed and it is desirable to ascertain what action has been taken by the State Government pursuant to the requests made to it by the Central Government to provide some of the facilities required by the settlers, and it is considered necessary to make the following supplementary directions: [857C-D]

The Central Government and State Government should decide between them as to which of them will give loans to the settlers and to what extent. [857D]

The Central Government should direct that the existing post office establishment should be enlarged to handle disbursement of pensions. [857E]

The State Government should upgrade the existing middle school to the status of High School and make adequate provision for additional seats in the students' hostel to absorb the increasing number of seats resulting from such upgradation and the grant of domicile certificates in relation to settlers, atleast in respect of members of petitioner society should be considered. [857E-F]

Respondents No. 1 and 2 will file before the next date of hearing, affidavits indicating the action taken by

them pursuant to the decisions taken at the inter-Ministerial meeting and pursuant to the directions made by this Court. [857G]

JUDGMENT:

ORIGINAL JURISDICTION: Writ Petition (Civil) No. 8227 of 1982.

Under Article 32 of the Constitution of India.

Dr. Abishek Singhvi, A. Subba Rao and A.S. Gauraya for the Petitioners.

Girish Chandra and S. Suri for the Respondents.

The Judgment of the Court was delivered by PATHAK, CJ. This petition under Article 32 of the Constitution has been filed by two petitioners, the Assam Rifles Multi-purpose Co-operative Society Limited and Major General A.S. Guraya, AVSM (Retd.), Vice-Chairman of the said Co-operative Society. It is stated in this petition that on the north-eastern extremity of India, between latitudes 27deg.N. and 28deg.N. and on both sides of longitude 97xE., within the former Tirup District in the NEFA area (now in Arunachal Pradesh) lies substantial territory which is a part of India. It is claimed that Major General Guraya as Inspector General Assam Rifles prepared a programme for settling retired defence personnel, specially of the Assam Rifles, in that region and took preparatory steps for effecting such settlement. It is asserted that about two hundred retired personnel with their families journeyed to the region and settled there on the basis of a scheme approved by the Government of India. It is alleged that the scheme assured allotment of land, grant of title deeds in respect of the allotted land, facilities for movement by air to and from Mohanbari, freedom to develop the allotted areas, grant of advance by way of loans, provision of marketing facilities for disposal of surplus produce, guaranteed supply of essential commodities and provision of the basic requirements of life for the purpose of encouraging the all-round economic development of the area. The Co-operative Society was formed with the object of ameliorating the conditions of the settlers and for improving their economic lot. The petitioners relied on correspondence exchanged between them and the authorities of the State Government and of the Central Government and prayed for directions from this Court to the respondents for grant of the reliefs indicated in the writ petition.

Counter Affidavits have been filed by the Government of India. Most of the allegations made by the petitioners have been denied. It is asserted that funds have been set apart and basic facilities have been provided. It is alleged that land was not allotted to Major Gen. Guraya as he did not belong to the Assam Rifles and the scheme for rehabilitation of retired personnel from that unit did not cover him. It is alleged that he has engineered this writ petition. We may mention at the very outset that Major General Guraya, who appears in person before us, has categorically stated that he is not interested any more in any personal allotment.

The case was taken up by us on 20 February, 1987 and after hearing the parties we were satisfied that settlement and habitation in that region should be encouraged. The region constitutes part of Indian territory and is located on the Indian border with China and Burma. It is in the public interest and for the benefit of the public that settlement of Indian citizens should be encouraged in this area and the area should be suitably developed. In that view, on 20 February, 1987 we made an order directing the Central Government to nominate a competent authority of suitable status to examine the problem and to look into the scheme and, after hearing the petitioners, to report to the Central Government to enable it to make an appropriate order for redress of the grievances of the petitioners. Pursuant to the order of this Court, a report was submitted by the present Director General, Assam Rifles in which he noted the features of the original scheme set forth in NEFA Adm. letter No. PC 42/63 of 16/17 August, 1963 and the approval with modifications of the Government of India in the Ministry of External Affairs thereto, as well as the points raised by the Assam Rifles Ex-servicemen before this Court and before the Director General, Assam Rifles when he visited Vijayanagar for the purpose, and in that report, he has made a number of recommendations in support of the scheme to settle Assam Rifles Ex-servicemen and to ensure that the various facilities and concessions originally promised to them are provided. We had directed in our order of 20 February, 1987 that the final order should be made by the Government of India after consideration of the report. It seems that the Government considered the recommendations at an inter-Ministerial meeting held in the Home Ministry on 6 July, 1987 and thereafter took the decision contained in Annexure III to the affidavit of Shri R.K. Tandon, Deputy Secretary (NE), Ministry of Home Affairs, New Delhi. It appears that the Government has decided that the Assam Rifles Ex-servicemen who have been allotted 10-11 acres of prime land per family in a valley should be provided with agricultural input facilities including animal husbandry, fertilizers, insecticides as well as horticultural support under the normal schemes run by the State Government, that the State Government should be requested to issue specific letters in respect of each family to enable it to obtain loans from banks and other financial institutions, that while free air-lifts were not possible, the State Government should be asked to find out whether the subsidised rate of Rs.89 per flight per head could be further reduced and that in any event no charges be levied for abortive flights, that while a full time doctor is already posted in Vijaynagar, the State Government should be requested to post a mid-wife to the Vijayanagar hospital and to arrange for periodical visits of a Gynaecologist, that the State PWD be requested to undertake the repair of the suspension bridges forthwith, that the Multi-purpose Co-operative Society should apply to the State Government for recognition, and that a meeting be called to sort out the difficulties in the disbursal of pension by the Department of Posts and that on issues such as grant of citizenship, loans etc. the position indicated in the minutes of the inter-Ministerial meeting held on 6 July, 1987 should be maintained.

The report of the present Director General Assam Rifles and the decisions taken by the Central Government thereupon have been considered by us in the light of the submissions made by the parties. The decisions of the Central Government placed before us refer to requests to be made to the State Government to provide some of the facilities required by the settlers. Reference has already been made to those matters earlier. More than sufficient time has passed, and it is desirable to ascertain what action has been taken by the State Government pursuant to those requests of the Central Government. Certain supplementary directions are necessary from this Court, and we make them now:

1. The Central Government and the State Government should decide between them as to which of them will give loans to the settlers and to what extent.

2. The Central Government should direct that the exist-

ing Post Office establishment be enlarged to handle dis- bursement of pensions.

3. The State Government should upgrade the existing middle school to the status of a high school and make ade- quate provision for additional seats in the student hostel to absorb the corresponding increase in the number of stu- dents resulting from such upgradation.

4. The grant of domicile certificates should be consid- ered in relation to the settlers, at least in respect of the members of the petitioner society.

The case will now be listed on 1 August, 1989 before which date the respondent No. 1, the Union of India, and the respondent No. 2, the State of Arunachal Pradesh, will file affidavits indicating the action adopted by them pursuant to the decisions taken at the inter Ministerial meeting men- tioned earlier and pursuant to the directions made by this Court in this Order.

N.P.V.