

(2001) 03 RAJ CK 0085

Rajasthan High Court

Case No: Civil Writ Petition No. 1011 of 2001

Braham Singh and
Another

APPELLANT

Vs

State of Rajasthan and
Others

RESPONDENT

Date of Decision: March 15, 2001

Acts Referred:

- Constitution of India, 1950 - Article 226

Citation: AIR 2001 Raj 392 : (2001) 2 RLW 992 : (2001) 3 WLC 150 : (2001) 2 WLN 248

Hon'ble Judges: Bhagwati Prasad, J; A.R. Lakshmanan, J

Bench: Division Bench

Advocate: A.K. Rajvanshy, for the Appellant;

Judgement

@JUDGMENTTAG-ORDER

Lakshmanan, CJ.

(1). The present petition has been filed by the two petitioners claiming that they are espousing the public cause,

(2). According to the petitioners, they are residents of Mahamandir Bagar and Mala Ka Than, Jodhpur. There is water supply facility for these areas constructed 4 years ago taking into consideration the population of the year 1991, which according to the petitioners has now multiplied by 2 1/2 times.

(3). According to the petitioners the respondents are going to grant water connection to the respondent No.7, a hotel from the same source. If the water connection is granted to the hotel from the same source then the hotel being situated at a lower alignment would siphon away the major portion of the water and the other residents will be left high and dry. Though the hotel is situated outside these localities but it has been claimed in the petition that the level of the hotel is

much lower than the level of these localities as claimed in the petition about 100 feet as mentioned in Annex. 2.

(4). It has been claimed in the petition that the State Government has taken a policy decision as contained in Annex, I attached to the writ petition wherein it has been provided that for supply of water to hotels and industries a separate water supply system is to be worked out and that has to be from the first distribution point and the capital cost and supervision charges has to be borne by the consumer which has to be repaid in 20 equal annual interest free instalments to be adjusted against the tariff bill and in one such case of another hotel in the city of Jodhpur such provision of separate line has been made.

(5). The petitioners have claimed that they have filed representations before the P.H.E.D. Minister. A copy of the same has been produced as Annex. 2. A notice for demand of justice was also issued by the petitioners through their counsel and has been produced as Annex. 5.

(6). The petitioners in their representation maintained the public interest. They sought the implementation of the policy decision of the State Government as produced as Annex. 1.

(7). It has also been claimed by the petitioners in the representation that in case the respondent Public Health and Engineering Department is not restrained from giving water supply to the hotel then it will become difficult for the residents of those areas to survive. The petitioners have also claimed that in case the water supply is given from the existing pipe line then agitation will start.

(8). The petitioners have also claimed that in case of another hotel a separate line was instituted and this has not been done in the case of respondent No. 7 it amounts to discrimination.

(9). After consideration of the arguments of the petitioners what we find in this writ petition is that question of supply of water is raised. It is alleged that the same will be affected in future. The basis of the inference drawn by the petitioners is not supported by any technical evaluation. There is no material available on record to support the apprehension of the petitioners. When there is no technical details placed on record by the petitioners drawing of such inference is unfounded. The Public Health and Engineering Department is equipped to nurture the cause of the residents. On Annex. 2 the Minister for Public Health and Engineering Department has already made an order that the connection should be given after examining the public interest. Once an order has been passed by the concerned Minister the grievance of the petitioners has already been redressed by the responsible functionaries of the State and the respondents are supposed to follow the orders.

(10). As regards the policy decision as contained in Annex. 1 suffice it to say that such policy decision of the State Government cannot be justiciable in court of law

and cannot be enforced by a writ petition.

(11). In view thereof it is not for this Court to enforce such a policy decision and it is for the State to frame and implement such policy in the public interest. That being the position, no relief can be granted to the petitioners in the present writ petition. No case is made out for interference.

(12). The writ petition having no merit is, therefore, dismissed.