

(1998) 08 PAT CK 0074

Patna High Court

Case No: C.W.J.C. No. 3784 of 1996

Savitri Devi

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision: Aug. 4, 1998

Citation: (1998) 3 PLJR 770

Hon'ble Judges: S.J. Mukhopadhyay, J

Bench: Single Bench

Advocate: Bindhyachal Singh, for the Appellant; S.J. Rahman, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

1. In this case, the Petitioner has challenged the revisional order dated 30.1.96 passed by Addl. Member, Board of Revenue, Bihar, Patna apart from the other orders passed by the Collector and S.D.O.
2. As the case can be disposed of on short point and it appears that the matter requires re-consideration by the revisional authority, it is not necessary to discuss all the facts, claim and counter claim of the parties, except the relevant one.
3. A land ceiling case was initiated against the landholder Bishandeo Rao and after his death, the widow Petitioner-Savitri Devi was substituted. In the proceeding, certain units were allowed in favour of family of the landholder and certain lands were declared to be surplus.
4. In the present case, the sole question raised by the Petitioner relates to majority of her fifth son Binay Deo Rao. According to her, said son was major as on 9.9.70 and was entitled for additional unit in his favour. However, aforesaid submission was not accepted by the authorities for which ultimately, the Petitioner preferred Revision case No. 178/89 analogous with other case. With respect to the aforesaid issue, the revisional authority initially called for report from the Medical Board which was to be constituted by the Civil Surgeon-cum-Chief Medical Officer, West

Cham-paran, Bettiah. After receipt of such report, taking into consideration the other evidences, aforesaid issue was decided against the Petitioner vide impugned order dated 30.1.96.

5. Counsel for the Petitioner relied on the letter No. 617 dated 30.3.91, which was sent by the Civil Surgeon concerned to the revisional authority on the basis of report which was earlier sought for by the revisional authority. In the said letter, it was mentioned that the son (Binay Deo Rao) was found to be about 40. years of age by the Medical Board. However, such report was not accepted by the revisional authority on the ground that the said letter was issued without any basis.

6. The Petitioner, in the writ petition, at paras-15 to 17 has categorically stated that the son (Binay Deo Rao) was examined by Medical Board which was constituted by the Civil Surgeon-cum-Chief Medical Officer, Bettiah. Ossification test and X-ray of bone etc. was conducted whereinafter the Board submitted its report. It was on the basis of such report, the letter was issued by the Civil Surgeon concerned on 30.3.91.

7. A counter-affidavit has been filed on behalf of Respondent-State but the aforesaid fact has not been properly dealt therein. It is not clear from the counter affidavit, actually any ossification test was conducted by the Medical Board and what was the basis on which such report was submitted assessing the age of Binay Deo Rao. The Petitioner has not enclosed the copy of the report of the Medical Board, nor it was produced before the revisional authority. The revisional authority also did not care to call for such report which was submitted by Medical Board before disbelieving the suggestion as was made by the Civil Surgeon-cum-Chief Medical Officer vide his letter dated 30.3.91.

8. In the aforesaid circumstances, I set aside the part of the impugned order dated 30.1.96 passed in Revision case No. 178/89 and remit the case to the revisional authority for a decision afresh on the aforesaid issue i.e. whether Binay Deo Rao was major as on 9.9.70 or not. Before such decision, the revisional authority will call for the report which was submitted by the Medical Board in pursuance of which the letter dated 30.3.91 was issued by the Civil Surgeon-cum-Chief Medical Officer. After going through such report, a reasoned order be passed thereon, on an early date, preferably within a period of three months from the date of receipt/production of a copy of this order.

9. In the present writ petition, the Petitioner has also pointed out that the revisional authority has twice taken into consideration 1.89 acres of land as mentioned as para-24 to the writ petition, though there was no such order passed by the subordinate authority. The Petitioner is allowed to bring the aforesaid fact to the notice of the revisional authority. He will also look into this matter and pass appropriate order after hearing the Petitioner within the aforesaid period.

10. The writ petition stands disposed of, with the aforementioned observations/directions.