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C.A.No. 7632 OF 1997  
ITEM NO. 101

COURT No.6

SECTION XIIA

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Civil Appeal No.7632/1997@@  
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M.D., Singareni Collieries Co. Ltd.

Appellant (s)

VERSUS

Kangala N Rao & Ors.

Respondent (s)

( With Office Report )

with S.L.P.(C)No. 9991/1998@@  
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Date : 05/09/2001 This appeal & petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE V.N. KHARE  
HON'BLE MR. JUSTICE B.N. AGRAWAL

For Appellant (s)      Mr. Altaf Ahmed,ASG.  
in both                      Mr. B. Parthasarthy,Adv.

For Respondent (s)  
in CA 7632                      Mr. Y. Raja Gopala Rao,Adv.

in SLP(C)9991                      Mr. A. Raghuvir,Sr.Adv.  
                                            Mr. P. Venkat Reddy,Adv.  
                                            Mr. A. Raghunath,Adv.

UPON hearing counsel the Court made the following  
O R D E R

.....L.....I.....T.....T.....T.....T.....T.....J.  
.SP2

Leave granted in SLP(C)No.9991/1998.  
The appeals are allowed. There shall be no order  
as to costs.

.SP1

(Neelam Kawatra)  
Court Master

(S. Krishnan)  
Court Master

Signed order is placed on the file.

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 7632 OF 1997

M.D., Singareni Collieries Co. Ltd .. Appellant (s)

-vs-

Kangala N Rao and ors. .. Respondent (s)

(with C.A. No. 6187/2001 @ S.L.P.© No. 9991/1998)

O R D E R

C.A. No. 7632/1997

A large tract of land was acquired by the State of Andhra Pradesh for the appellant herein under the Land Acquisition Act. On 30.4.1986, the Land Acquisition Collector gave an award in respect of land acquired. One of the commitments made by the appellant for whom the land was acquired was that the land losers shall be given employment in the company. According to the respondents neither the land holders whose lands were acquired nor their nominees have been given employment by the Company as per their commitment. Under such circumstances, the respondents herein filed writ petition before the Andhra Pradesh High Court for issuing a direction to the appellant herein to give employment to the writ petitioner in its Company. In the writ petition out of which this appeal arises, the appellant herein filed a counter affidavit wherein it was asserted that the Company had already given employment to the land holders whose land was acquired as per its commitment and question of giving employment to the writ petitioners does not arise. The learned single Judge without adverting to that aspect of the matter allowed the writ petition and gave direction to the Company to give employment to the writ petitioners. Aggrieved, the appellant filed writ appeal before the Division Bench of the High Court but the same was dismissed. It is against the same judgment, the appellant is in appeal before us.

Shri Altaf Ahmed, learned Additional Solicitor General, appearing for the appellant urged that in view of the fact that the appellant herein has already given employment to the land holders whose land was acquired or to their nominees, the High Court fell in error in not considering that aspect of the case of the matter. Learned counsel appearing for the respondents urged that although there is no finding to that effect but from the conclusion arrived at in the judgment shows that the High Court did consider the plea of the appellant. We have perused the judgment but we do not find any finding having recorded by the High Court that the plea of the appellant that it has already given employment to land holders or their nominees is incorrect. In the absence of such finding, the judgment under challenge deserves to be set aside. We, accordingly, set aside the impugned judgment and send the case back to a Division Bench of the High Court to decide the writ appeal in light of observation made hereinbefore. It will be open to the parties to file fresh affidavits, if they are so advised.

The appeal is allowed. There shall be no order as to costs.

C.A. No. 6187/2001 @ S.L.P.© No. 9991/1998

Leave granted.

This appeal arises out of the judgment of the High Court of Andhra Pradesh passed in W.A. No. 1260/1997. The State of Andhra Pradesh acquired a large tract of land and an award was given on 30.4.1986. The Company for whom the land was acquired made a commitment that the land holders whose land has been acquired shall be given employment in the

Company. However, subsequently, Andhra Pradesh (Regulation of Appointments to Public Services and Rationalisation of Staff Pattern and Pay Structure) Act, 1994 (hereinafter referred to as the Act ) was passed. Section 3(2) of the Act provides that no temporary appointment shall be made in any public service to any post, in any class, category or grade without the prior permission of the competent authority and without the name of the concerned candidate being sponsored by the Employment Exchange. Subsequently, the respondents herein filed a writ petition in the High Court for direction to the Company to give employment to them as per their commitment. In the writ petition, the writ petitioners claimed themselves as land losers or their nominees entitled to benefit of commitment made by the appellant. A counter affidavit was filed by the appellant herein in the writ petition wherein one of the allegations was that the writ petitioners have fraudulently manipulated the land loser s certificate and, therefore, are not entitled to the employment as per the commitment made by the Company. The learned Single Judge without advertng to the plea raised by the Company, following the decision in W.P. No. 16492/1994 dated 20.12.1995 allowed the writ petition. Aggrieved, the Company filed writ appeal before a Division Bench of the High Court, but the same was dismissed. It is against the said judgment, the appellants are before us.

We have heard learned counsel for the parties and perused the record. We find that the High Court, in the present case, without advertng to the plea regarding authenticity of writ petitioners loser s certificates raised in the counter affidavit allowed the writ petition merely following the earlier decision. We are, therefore, of the view that the plea raised in the counter affidavit by the Company was required to be considered by the High Court. We, therefore, set aside the order under challenge and send the case back to a Division Bench of the High Court to decide the case afresh in the light of observation made hereinbefore. It will be open to the parties to file fresh affidavits and raise such contentions which may be available to them under law.

The appeal is allowed. There shall be no order as to costs.

& & & & & ..J.  
(V. N. Khare)

& & & & & .J.  
(B. N. Agrawal)

New Delhi;  
5th September, 2001

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