GOVERNMENT OF KARNATAKA

NO.RD 305 LRW 75

Karnataka Government Secretariat,
"Vidhana Soudha"
Bangalore, dated: 10 -11-1975.

CIRCULAR

Sub: Principles of Natural justice to be followed by the Tribunals in their proceedings - Observations of the High Court on W.P.No.3884/75 - Smt.Khatija Bi Vs Shri H.L.Naik and others.

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The High Court of Karnataka while dismissing the W.P. No.3884 of 1975 filed by Smt.Khatija Bi, Supa Taluk, North Kanara District, have observed that the principles of natural justice are required to be followed by Tribunals while exercising administrative and quasi-judicial powers under the Karnataka Land Reforms Act and the Rules thereunder. The relevant extracts of the judgment of the High Court dated 25.8.1975 on the aforesaid Writ Petition are reproduced for information and guidance of the Assistant Commissioners/Special Assistant Commissioners who function as Chairmen of the Tribunals and the Tahsildars /Special Tahsildars who function as the Secretaries of the Tribunals.

"Rule No.16 of Karnataka Land Reforms Rules, 1974 requires that the Chairman has to be present in all meetings of the Tribunal as the quorum prescribed for the meetings of the Tribunal (including adjourned meeting) is three including the Chairman.

The fact that laymen are associated with the decision making process of the Tribunals does not lead to the conclusion that the members of the Tribunal can decide cases without having regard to the principles of fair play and justice. What these principles are, are well settled.

No decision affecting party can be made without giving him notice to show cause why such decision should not be rendered against him. The party appearing before the Tribunal should be given reasonable opportunity to defend himself and to urge all his contentions. The Tribunal should give reasons in support of its order. The members of the tribunal should be free from external influence and their decision should not be based on extraneous considerations. They should not fetter their decision by following self-created policy. The decision should be based on materials placed before them. The members of the Tribunal should not have any bias either in favour or against any party appearing before them..The power should not be exercised by them to achieve any improper purpose or to satisfy any ulterior motive. Bad faith and dishonesty on their part would vitiate a decision of the Tribunal. If the Tribunals keep before them these principles, then there would be hardly any ground to complain against their decision".

Further, the High Court examined the order passed by the Tribunal in the instant case quoted above, with reference to the scope of interference under Article 227 of the Constitution and in the light of para 8 the Supreme Court decision in BABHUTMAL VS. LAXMBAI (AIR.1975 S.C.1297); and have observed as follows:-

" There is no substance in this writ petition. The 4th respondent claimed before the Tribunal that he should be declared as a tenant on the relevant date of the land mentioned in the order.

the lands in question for about 5 years prior to the date of hearing of the case before the tribunal and that he was cultivating it with the aid of the members of his family. The petitioner, however, contended that she had given the lands to the 4th respondent on cooly wages for one year and that she had paid a sum of Rs.1,000/- to 4th respondent in advance for his expenditure. She did not produce before the Tribunal any receipt to show that she had advanced Rs.1,000/- towards his expenses. On the other hand, she had admitted before the Tribunal that the 4th respondent had satisfied the levy demand and paid the land revenue also. The levy demand is ordinarily satisfied by a person who has grown agricultural crops either as owner or as tenant. The petitioner further admitted that she had made use of the bullocks belonging to the petitioner to plough the land. It is no doubt true that in the course of her statement she had stated that she had spent much/on the seedlings and it was not true that she was not keeping watch over the field. It is seen from the statement made by the petitioner and the 4th respondent that the 4th respondent was actually working on the land. The only point of difference between the petitioner and the 4th respondent related to the question whether he was cultivating the land as a cooly or as a tenant. The tribunal on the consideration of the evidence placed before it has held that the 4th respondent was a tenant entitled to the land, and as such there would be no ground for interference under Art.227 of the Constitution. In this case, there is neither any error of jurisdiction nor any other error calling for interference under Article 226 also. In the result, this petition fails and it is dismissed".

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To

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