
(2011) 06 MAD CK 0176
In the Madras High Court
Case No : Writ Petition No. 26470 of 2010

A. Seenisankar

APPELLANT

Vs

The State of Tamilnadu and Others

RESPONDENT

Date of Decision : 07-06-2011

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2011) 06 MAD CK 0176

Hon'ble Judges : K. Chandru, J

Bench : Single Bench

Advocate : N. Suresh, for the Appellant; R. Murali, GA, for the Respondent

Final Decision : Dismissed

Judgement

K. Chandru, J.—The Petitioner has filed the present writ petition seeking to challenge an order of the third Respondent, i.e., District

Employment Officer, Villupuram District, dated 12.11.2010 and after setting aside the same, seeks for a direction to register the Petitioner's name

under the Land Losers" Priority category in the employment register with effect from 2.1.2008.

2. When the matter came up on 25.11.2010, this Court had directed the learned Government Advocate to receive notice and to get instructions.

Accordingly, on behalf of the third Respondent (wrongly described as second Respondent), a counter affidavit, dated 25.5.2009 was filed.

3. It is seen from the records that the Petitioner was the son of one Arumugam residing at Mettu Street, Sennagunam, Thirukoilur Taluk. He had

registered his name in the employment exchange on 17.6.2002 showing his qualification as SSLC passed. Subsequently when he passed his higher

secondary and obtained Diploma in Teacher Education, those additional

qualifications were also registered on 12.3.2007. The Petitioner belonged to B.C. Community. His registration in the employment exchange was valid upto March, 2010.

4. The Petitioner claimed that he had produced a certificate from the Tahsildar, Adi Dravidar Welfare, Ulundurpet, dated 2.1.2008 showing that

he belongs to Land Losers" category and that his land was acquired. Normally, a request of a person will be examined and his certificate obtained

from the Tahsildar will be referred to for verification of its genuineness. The Petitioner gave his requisition on 22.09.2008. His certificate was sent

for verification by the Revenue authorities as per the guidelines issued by the Commissioner of Employment and Training with reference to verifying

the genuineness of the employment certificate. The certificate produced by the Petitioner was examined and it was found that the Petitioner had

purchased the land in Survey No. 2031 on 18.07.2007 and gave it to the Government on 14.12.2007. The land was taken over for providing

burial ground to Adidraavidar of Sennagunam village. No cultivation had taken place from the date of the purchase till the date of handing over

possession. The Petitioner never had any land at the time of his studying and that the purchase of the land was intentionally made only to gain

priority category in the employment register. The land which was only 0.24 cents was not utilized for any cultivation and was handed over to the

Government with oblique purpose. Therefore, it was submitted by the Respondents that it is only in cases where on account of acquisition of land if

the livelihood of the land owner is affected, they alone are eligible for registration under the priority category in terms of Land Losers".

5. These facts were brought to the notice of the Petitioner by the impugned order. It was stated that the certificate was issued erroneously by the

Special Tahsildar of Adi Dravidar Welfare, Ulundurpet and hence, the Petitioner's request cannot be considered. Even that order came to be

made only when the Petitioner had moved this Court with W.P. No. 30575 of 2008. A direction was given on 27.04.2010 to the District

Employment Officer, Villupuram to verify the genuineness of the certificate and only if it is genuine, it can be registered as such.

6. The learned Counsel for the Petitioner placed reliance upon an order of the State Government in G.O. Ms. No. 188, P&AR Department, dated

28.12.1976 providing guidelines for priority. In that order, priority relating to land losers have been set out under Group-II in sub paragraph

(iii), which reads as follows:

(iii) Members of the family (including members of scheduled Caste/Scheduled Tribe) whose lands have been acquired for Government Purposes as

well as for the projects of the Public Sector undertakings Subject to the condition that preference should be given to those who are dependent for

their livelihood primarily or wholly on the lands acquired and from among them to members of the Scheduled Castes and Scheduled Tribes who

may be eligible for employment.

7. The Petitioner has not refuted the allegation that he had purchased the land in question only on 18.7.2007. It was purchased for Rs. 16800/-. In

the sale deed itself it was shown as Punja land. It is not a case of compulsory acquisition by the Government. The Petitioner had entered into a

private negotiation with the Special Tahsildar, Adi Dravidar Welfare to part with the land and that too within five months from the date of his

purchase. He was also paid the market rate of compensation agreed to by him. The Petitioner was paid more than the data land identified and

almost he was given 150% of the enhanced value. In his representation, he had not stated that he was cultivating the land and that he was

substantially depending upon the income of the land. On the contrary, it transpires that the very purchase was with a view to hand over the land to

the Respondents for laying the burial ground for the Adi dravidars of the village. The Petitioner must have got an hint about the acquisition proposal

and thereafter, had purchased the land only to get himself included in the priority category for getting a post of a Teacher. If the Petitioner was

having land in possession even at the time of his studying, certainly at the time of registration, he would have given an application for registration of

his name under priority category.

8. Perusal of the records shows that the Petitioner had invested Rs. 16800/- as per the sale deed, dated 18.7.2007 and within five months, he was

before the Tahsildar for handing over the land through a private negotiation for Adi Dravidar Welfare Scheme. From the Government, he had got

Rs. 13800/- which is less than Rs. 3000/- from the actual value of his purchase. In normal circumstances, the land owner will not use the market

value of compensation especially when the Act provides for first appeal to the Reference Court and second appeal to this Court for enhancement

of compensation. The hurry in which the Petitioner had handed over the land is for oblique purpose for getting his name registered in the

employment exchange and for which he had spent roughly Rs. 3000/-.

9. In this context, it is necessary to refer to certain decisions of the Supreme Court providing for priority consideration in the matter of employment

in case of compulsory acquisition of land for various projects by the Government.

10. The Supreme Court vide its judgment in Calcutta Port Trust Vs. Deba Prosad Bag, Satya Ranjan Kutty, Maradhan Jana, Sachindra Nath

Maity, Akshoy Kumar Giri and Asmoke Kumar Naity, , dealt with the importance of a Screening Committee when claims for employment on the

land loser category are received. It is necessary to extract the following passage found in paragraph 13 of the said judgment which is as follows:

13... Certainly, some person or authority will have to examine the correctness and bona fides of those who claim to be uprooted persons. It is

appropriate that such examination is done by a Screening Committee. Such a screening would ensure elimination of bogus claims. It is a

wholesome principle which requires to be adopted in this case. Therefore, we modify the order under appeal and direct that the cases of the

Respondents will be considered by the Screening Committee.

11. The Supreme Court once again vide its judgment in South-Eastern Coalfields Ltd. v. Prem Kumar Sharma reported in (2007) 14 SCC 508,

struck a note of caution in the grant of such appointments. In paragraphs 6 to 9 it was held as follows:

6. The guidelines which are undisputedly applicable read as follows:

The Government had earlier constituted a committee to consider evolution of uniform guidelines for providing employment to land-losers. The

Committee had submitted its report and the same has now been accepted by the Government subject to one amendment vide Letter No.

55011/14/83-PIR/CP dated 17-11-1984. Copy enclosed. The approved uniform guideline is annexed with this letter. You are requested to kindly

ensure that these guidelines are implemented in your company.

7. In the approved recommendations of the Committee constituted by the Government of India, Ministry of Energy, Department of Coal evolving

uniform guidelines for employment to the land-losers, it has been inter alia stated as follows:

(i) The standard norm should be one employment for 3 acres of non-irrigated land and 2 acres of irrigated land. The practice ECL should be

brought on a par with the practice in the other 3 companies.

(ii) However, if the land-loser being considered for employment is a matriculate or above, the norm may be reduced to 2 acres per person if he

opts to join initially as an apprentice for a period of 2 years during which he may be paid a fixed stipend per month. His regulation will subsequently

be governed by the normal rules of the Company.

(iii) For the purpose of employment the unit will be landowner/raiyat whose title appears in the record-of-rights of the particular village and will

include his direct linear dependent.

(iv) The Committee deliberated on the point whether employment to land-loser should be accepted as a compulsory obligation of the management

of the Coal Company, irrespective of the requirement of manpower. The Committee recommends that wherever possible, effort should be made to

offer increased amount of compensation to the land-losers with a view to content the manpower unless the Company has the requirement of

personnel in a particular category within the sanctioned strength of the manpower.

8. A bare perusal of the recommendations and the guidelines make the position clear that acquired area should be 3 acres of non-irrigated land or

2 acres of irrigated land. Because the acquired area is much less under the recommendations/guidelines, the Respondent was not entitled to any

relief. The other question is as to whether Respondent 1 was entitled to be appointed on the ground that some others have been appointed.

9. The concept of equality as envisaged under Article 14 of the Constitution of India is a positive concept which cannot be enforced in a negative

manner. When any authority is shown to have committed any illegality or irregularity in favour of any individual or group of individuals the others

cannot claim the same illegality or irregularity on the ground of denial thereof to them. Similarly, wrong judgment passed in favour of one individual

does not entitle others to claim similar benefits.

12. Even the subsequent G.O. issued by the Government guaranteeing one job

for one family of land losers vide G.O. Ms. No. 656, Labour and Employment Department, dated 29.6.1978 in respect of Public Sector Undertakings came to be considered by a Division Bench of this Court presided by P. Sathasivam, J (as he then was) in Pon Muthu Nadar and Muthu Vs. State of Tamilnadu and Others, . In construing the said G.O., the Division Bench in paragraph 14 has held as follows:

14 ...as per the Government Order referred above, the burden is on the Appointing Authority concerned of the Public Sector Undertaking to

decide as to whether the land acquired was the major source of sustenance for the family displaced due to acquisition....

13. The very same method adopted by several other persons in Namakkal District came up for consideration by this Court in J. Mohan v. District

Collector, Namakkal District reported in 2010 (4) MLJ 807. In that case, this Court had frowned upon the action of the authorities in hurriedly

granting certificates and the attempt by certain unemployed youths in getting employment by hook and crook. Insofar as the present case is

concerned, it was not even the case of any acquisition of land from which the Petitioner was substantially deriving income. It was a sale of land by

a private individual to the Government on agreed rates. It is only where compulsory acquisition involved which deprived the substantial income of

an agriculturist, the question of such private employment over and above the payment of market rate of compensation will arise. Certainly that is

not the case at present. The Petitioner did not come within the purview of the Government Order in question. Even in the earlier order, this Court

had clearly directed the authorities to verify the genuineness and that the authorities had correctly verified its genuineness and found that the Special

Tahsildar had previously erred in granting such certificate.

14. In the light of the above, the relief claimed by the Petitioner cannot be countenanced by this Court. Hence the writ petition will stand dismissed.

However there will be no order as to costs.