
(2014) 10 MAD CK 0288
In the Madras High Court
Case No : Writ Appeal No. 463 of 2014

Balusamy

APPELLANT

Vs

The Special Tahsildar

RESPONDENT

Date of Decision : 27-10-2014

Acts Referred:

Land Acquisition Act, 1894 — Section 4(1)

Citation : (2014) 10 MAD CK 0288

Hon'ble Judges : Satish K. Agnihotri, J;K.K. Sasidharan, J

Bench : Division Bench

Judgement

1. The challenge before the writ court was to the legality and validity of the order No. Na.Ka.E/18/2008 dated 23.08.2013 and also seeking for a direction to the respondent to issue priority certificate in favour of the petitioner's son Baskar.

2. The facts in brief are that the father of the petitioner, namely Alagappan, owned lands in S. Nos. 238/6, 261/2B and 261/5. The said land was acquired under the provisions of the Land Acquisition Act. A notification under Section 4(1) of the Act was issued on 13.11.1998 and 31.3.1999, which resulted into passing of Awards on 23.01.2001 and 22.05.2001 and consequently, the possession thereof was also taken by the Government. The writ petitioner relying on G.O. Ms. No. 188, Personnel and Administrative Reforms (Per.P) Department, dated 28.12.1976, made an application to the sole respondent for grant of priority certificate in favour of his son for preferential employment. The sole respondent, by an order dated 23.8.2013, rejected the application, holding that the petitioner's son, for whom preference certificate was sought for, was not entitled to the said certificate as he was not directly dependent on the land owner, i.e., his grand father at the time of acquisition of the land. Being aggrieved, the petitioner preferred the writ petition, seeking for a writ of certiorarified mandamus to quash the said order dated 23.08.2013 and also for a direction to the respondent to issue priority certificate in favour of his son Baskar.

3. The learned Single Judge, having examined all aspects of the matter, came to

the following conclusion and resultantly dismissed the writ petition. From the above, it is clear that members of the family which are dependent for their livelihood primarily on the lands acquired may be eligible for employment. Property belongs to the petitioner's father and the certificate is sought for the owners grand son. Moreover, S. 4(1) notification was passed as early as on 13.11.1998. If really the petitioner and his family were purely depending upon the said acquired lands, the petitioner very well could have approached for the priority certificate at the earliest point of time. Only after waiting for his son to acquire B.E degree, the petitioner very casually applied for priority certificate and that itself would show that the entire family is not depending upon the income. That apart as rightly pointed by the respondent by no such imagination the grandson is eligible for priority certificate and hence cannot be issued.

4. The writ petitioner has approached this court with the instant writ appeal arising from the impugned order dated 29.10.2013 passed in the writ court. The contention of the learned counsel for the appellant before this court is that under Clause (iv) of the Annexure to the G.O. Ms. No. 188 dated 28.12.1976, all family members including the grand son was entitled to preference in the employment. The petitioner's son was not eligible at the time when the said land was acquired as he was pursuing his education and completed B.E. Degree only recently and as such the petitioner's son is entitled to priority certificate under the said G.O.

5. To appreciate the contention of the learned counsel, the relevant provision is quoted as under :

(iv) Members of the family (including members of Scheduled Caste/Scheduled Tribes) 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.

6. On perusal of the aforestated provision, it is clear that the grant of preferential treatment for employment was on the ground that the family members, who are dependent for their livelihood primarily or wholly on the lands acquired, ought to be considered for preferential treatment in employment. Indisputably, the land in question was acquired way back in January and May, 2001. The petitioner, who happened to be the son of the original land owner and also presumably dependent of him, did not make any endeavour to take employment on the basis of preferential treatment. It is also not the case of the petitioner that the petitioner and his son both were dependent for their livelihood primarily or wholly on the said lands acquired by the Government. Thus, the appellant is not entitled to any benefit under the said provisions for preferential treatment. We do not find any error in the order sought to be impugned in this appeal, warranting interference.

7. As a result, the writ appeal is dismissed at admission stage itself.