
(2015) 03 MAD CK 0352

In the Madras High Court

Case No : Writ Petition (MD) No. 14852 of 2014

E. Parasupillai

APPELLANT

Vs

The District Collector and Others

RESPONDENT

Date of Decision : 25-03-2015

Acts Referred:

Citation : (2015) 03 MAD CK 0352

Hon'ble Judges : B. Rajendran, J

Bench : Single Bench

Advocate : N. Sivakumar, for the Appellant; S. Chandrasekar, Government Advocate, Advocates for the Respondent

Final Decision : Partly Allowed

Judgement

B. Rajendran, J.

1. This Writ Petition has been filed challenging the impugned proceedings of the respondent dated 14.03.2013 and consequential direction to the respondent to issue work order reserved by the proceedings of the respondent in Se.Mu.Na.Ka.A5/2297/2012, dated 12.09.2012.

2. The learned counsel for the petitioner would submit that the petitioner is a disabled person having 50% disability and a member of the BPL family. According to him, it was approved by the Block Development Officer, as he being an eligible candidate for allotment of a house in his name under the "The Chief Minister's Solar Powered Green House Scheme (CMSPGHS) 2012, as per G.O. Ms.No.46, dated 17.08.2011. Though he applied in time and was eligible he has not been allotted. Therefore, originally he made a complaint to the Chief Minister's Cell and even though he received a reply stating that his name would be considered for allotment of a house in the coming year, his name was not considered. Therefore, earlier he filed a revision petition that was not taken up and hence he filed a Writ Petition in W.P.(MD) No. 6198 of 2012. In that Writ Petition an interim order was passed reserving one house for him and ultimately,

the said Writ Petition was disposed of with a direction to consider and dispose of the revision petition filed by the petitioner. But, according to him, in view of the interim order one house was reserved and not allotted to anybody. Thereafter, in the revision an order was passed on 14.03.2013 rejecting his application for allotment of a house. Thereafter, he filed a review application and the review application was also rejected. According to him, the review application was rejected on a flimsy grounds including one stating that he has not even applied. If he had not even applied, they would not have even passed the order in the revision petition. According to him, they have rejected the review application on the ground that he is not Below Poverty Line member and the BPL number is given only to his mother's name. Only one BPL number is given to a family. Therefore, he is entitled to. Apart from that, he is also a physically handicapped person with more than 50% disability and one more ground taken by the authority is that he is working as a daily wager in the Hindu Religious and Charitable Endowment Department. But, according to the petitioner, he was working as a daily wager at the rate of Rs.100/- per day that cannot a bar for him. Therefore, the rejection is also invalid and not in accordance with law and they have not considered his representation properly. In fact, he had applied for inclusion of his name under the scheme but the President wantonly and wilfully has not placed before the Grama Sabha and the petitioner has also pointed out very many irregularity in the grant of allotment to the members and that has not been considered and exclusively he has been rejected for pointing out the irregularities. Therefore, the petitioner has challenged the very rejection order passed by the respondents.

3. The respondent has filed a detailed counter. In the counter they would contend that the petitioner is not eligible for getting the house. They would also specifically stated that the village panchayat President has not included the name of the petitioner in the beneficiary list for the reason that he is a daily wager in Devasam Board as well as his name has not been included in the BPL list. The revision was dismissed on the ground that he did not give any petition for allotment of house before the Grama Sabha, his name was not approved by the Grama Sabha and his name does not find place in the BPL list and also he is working as a daily wager. The Block Development Officer had requested the village panchayat President to take action to include the name of the petitioner in the BPL list in the Grama Sabha on 01.05.2013. Thereafter, the petitioner was asked to attend Grama Sabha on 26.01.2014 and to submit a petition seeking for house. But the petitioner did not attend the Grama Sabha. Since the targets have been achieved for the year 2012-2013 and 2013-2014, it is not possible to allot a house to the petitioner. Therefore, they prayed for dismissal.

4. Heard all the parties. By consent, the main Writ Petition is taken up for hearing.

5. At the outset, the petitioner is a physically disable person with 50% disability. As rightly pointed out his family was originally treated as BPL family. No doubt

the petitioner's name does not find place but his mother's name find place in the BPL list. In the rejoinder, he has specifically pointed that very many persons have been wrongly allotted viz., 1) Ambika, 2) Achirvatham, 3) Sreeja, 4) Subramani Asari, 5) Esther, 6) Arumugadesigar, 7) Sankaranarayanan, 8) Kanniammal and 9) Sasthankutty Pillai which he has also stated in the original petition. In fact, this is the reason he has been specifically excluded from the list of beneficiaries. Further, as rightly pointed out, he had originally applied to the Panchayat President and it is for the Panchayat President to place it before the Grama Sabha and when he has wantonly and wilfully not placed it before Grama Sabha merely because his name was not considered by the Grama Sabha, there cannot be a rejection. In the order, the authority concerned has stated another reason that the petitioner has not even applied. It is contrary to the very contention raised by the second respondent that the President has not placed it before the Grama Sabha. Therefore, unless he applied, where is the question of rejection. Further, it is admitted that he has filed it before the President. Thereafter only the reason which has been stated is he is not eligible as he is working in Devasam Board. But, according to the petitioner he was working as a daily wager that too he is getting Rs.100/- per day that has to be considered. In fact, in the counter, the Block Development Officer stated that he had recommended to include his name. But, why it was not included and what was happened thereafter, has not been explained. It is also not explained in the counter, what was the action taken insofar as the various irregularities allegedly committed in allotting the house to various other persons. It is also the contention of the petitioner that because he has pointed out the irregularities, he has been specifically omitted and not granted. Therefore, the order passed by the authority concerned is bereft of materials and the reasoning given is also not sound enough. Even otherwise, as he is a physically handicapped person, under the physically handicapped quota whether his name was considered or not has not been discussed and no order has been passed to that effect. Under these circumstance, the impugned order is liable to be set aside and accordingly the same is set aside. The matter is remitted back to the authority concerned and the authority concerned is directed to look into the various irregularities pointed out by the petitioner and thereafter, pass appropriate orders after giving notice to the petitioner.

6. This Writ Petition is allowed to the extent indicated above. No costs.