
(2001) 09 KAR CK 0041

In the Karnataka High Court

Case No : Writ Petition No's. 24598 to 24634 of 2000

Munichannaiah and others

APPELLANT

Vs

State of Karnataka and others

RESPONDENT

Date of Decision : 14-09-2001

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : AIR 2002 Kar 337 : (2001) ILR (Kar) 5253 : (2001) 5 KarLJ 534 : (2001) 4 KCCR 366 SN

Hon'ble Judges : A.V. Sreenivasa Reddy, J

Bench : Single Bench

Advocate : Sri N. Dinesh Rao, for the Appellant; Sri H.B. Mahesh, High Court Government Pleader, for the Respondent

Final Decision : Dismissed

Judgement

The Court

1. The petitioners have filed these petitions praying for the following reliefs:

i. Issue a writ or direction or order including a writ of certiorari, quashing the Order No. RHS(P):318/82-83, dated 3-1-2000 issued by the second respondent vide Annexure-J.

ii. Further issue a writ of mandamus directing the respondents to allot the sites formed out of Sy. No. 73 or any other plots to the petitioner.

2. The petitioners stake claim to the above stated reliefs on the ground that they are persons belonging to weaker section of the society and they are entitled for grant of house sites. It is their case that though they had applied to the authorities concerned, the applications were not considered by the authorities. In that connections, it is submitted, they filed W.P. Nos. 6609 to 6646 of 1996 for a direction to the authorities to dispose of their applications. In the said writ petitions an order dated 18th April, 1996 was made by the Court directing the

respondents to consider the claim of the petitioners for allotment of sites within six months from the date of receipt of the order. As the respondents failed to give effect to the direction of the Court the petitioners were constrained to file C.C.C. Nos. 750 and 762 to 764 of 1999. Subsequent to the filing of the contempt of Court case the respondents got issued the Government Order bearing No. RHS (P):318/82-83, dated 3-1-2000 (Annexure-J) whereunder the applications of the petitioners were rejected on the ground that their annual income exceeded Rs. 8,600/-. It is the grievance of the petitioners that the said Annexure-J was issued by the authorities only to overcome the consequences of the contempt petition filed by the petitioners and to defeat the claim of the petitioners. Hence, the prayer for quashing of the said Annexure-J and for allotting sites to them in Sy. No. 73 of Jalahalli Village, Bangalore North Taluk.

3. I have heard the learned Counsel for the petitioners as also the learned High Court Government Pleader.

4. The Central Government introduced a scheme for providing house sites to families of landless workers in rural area under which 100 per cent assistance is provided to States towards acquisition of land and also towards development of house sites. The State Government decided to implement the scheme on a massive scale and the lands required for the purpose were acquired. In pursuance of the scheme, the State Government had issued notifications from time to time under sub-section (3) of Section 2 of the Karnataka Acquisition of Land for Grant of House Sites Act, 1972 (Karnataka Act 18 of 1973), fixing the eligibility criteria for grant of house sites. As per the latest notification issued u/s 2(d) only persons whose annual income does not exceed Rs. 8,600/- would become eligible for grant of house sites under the Act. u/s 7 of the Act the State Government is empowered to make rules by issuing notifications, for carrying out the purposes of the Act. Therefore, the condition imposed that the annual income of a person seeking benefit under the Act should not exceed Rs. 8,600/- cannot be found fault with as it has received the legislative sanction. Annexure-J order impugned herein conforms to the condition so stipulated under the Act and, therefore, it cannot be found fault with.

5. The Act has come into existence for the purpose of advancing a social objective viz., to provide house sites to the people of the lower strata of the society. The State Government has reserved to itself the right to decide the "class" of people who should benefit under the Act, based on their annual income. Such a classification cannot be said to be without basis nor can the Courts intercede in such policy matters and direct the State to either up or lower the scale of income, particularly in view of the fact that the Act is promulgated to bestow a certain benefit which is in the form of gratis and the benefit does not accrue or emerge from any right enjoyed by the persons seeking relief under the Act. In the *The Vice-chancellor, Utkal University and Others Vs. S.K. Ghosh and Others*, , while dealing with the question whether a writ of mandamus could be issued in a case where the executive had substantially complied with the spirit of

law, the Apex Court held:

"It is not the function of the Courts of law to substitute their wisdom and discretion for that of persons to whose judgment the matter in question is entrusted by the law".

It would, therefore, always remain the prerogative of the State to decide as to who should benefit under the Act. No doubt, if petitioners satisfied the criterion and still were denied the benefit while at the same such benefits were extended to other similarly situated persons, certainly this Court could interfere and not otherwise. In Col. A.S. Sangwan Vs. Union of India (UOI) and Others, , the Apex Court held that the Court cannot interfere with the making or changing of executive policy, unless it is arbitrary, mala fide or guided by ulterior considerations or discriminatory or unfair, as against the mandate of Article 14 of the Constitution. It is not the case of the petitioners that they were discriminated against, in that persons whose income was similar or higher than them were given the benefit under the Act, while denying the same to them. On their own showing, the petitioners' income exceed the maximum prescribed under the Act. Clearly, the petitioners are disentitled to any relief in these petitions.

6, In the result, for the reasons stated above, there is no merit in these petitions and they are, accordingly, dismissed.