
(2015) 02 MAD CK 0241

In the Madras High Court

Case No : Writ Petition Nos. 16033 to 16040 of 2014 and M.P. Nos. 1 to 1 of 2014

N. Raju

APPELLANT

Vs

The Tamil Nadu Slum Clearance Board

RESPONDENT

Date of Decision : 19-02-2015

Acts Referred:

Citation : (2015) 02 MAD CK 0241

Hon'ble Judges : T.S. Sivagnanam, J.

Bench : Single Bench

Advocate : V.P. Sengottuvel, for the Appellant; V. Babu, TNSCB, Advocates for the Respondent

Judgement

T.S. Sivagnanam, J.—The petitioners, who are eight in number, filed this writ petition praying for issuance of a writ of mandamus to direct the respondent, namely the Tamil Nadu Slum Clearance Board to consider their representation dated 10.03.2014 and allot a tenement at Dhobikhana, Conransmith Nagar, Thousand Lights, Chennai.

2. The petitioners claim to be washermen belonging to the Dhobi community and according to them, all their forefathers and fathers were in that particular trade and the petitioners are also carrying on the said activity. The petitioners and their spouses eke out their livelihood by washing and ironing the clothes. The petitioners have submitted their representations to allot a tenement constructed by Tamil Nadu Housing Board stating that they are eligible to be considered for allotment . The first writ petition relating to the subject issue was filed in the year 1992 by Tamil Nadu Salavai Thozhilalar Munnetra Sangam in W.P. No. 14002 of 1992. The said writ petition was filed for issuance of writ of mandamus to direct the Tamil Slum Clearance Board to allot 115 tenement out of 222 tenements that are ready for allotment to the Dhobis including the members of the petitioners" Sangam residing and working in Conransmith Nagar. The said writ petition was disposed of by order dated 25.09.1992 to consider the

representation of the petitioners" sangam for allotment of 115 tenement to the members of the Sangam and accordingly a direction was issued to consider the same within a period of six weeks from the date of the order. It was also directed therein that till the final orders are passed on the said representation, no allotment shall be made to any third party.

3. Pursuant thereto, the respondent Board by communication dated 28.05.1997 addressed to the Association stated that 7 grounds of land has been permitted to be transferred to the Board for the said purpose and approval of the Government was awaited. The association made several representations and an order was passed by the Managing Director on 19.11.2010, therein the Managing Director was not inclined to accept the applications made in respect of 43 persons stating that they are all new entrance and not covered by the earlier order. A writ petition was filed in W.P. No. 5092 of 2011 challenging the said order dated 19.11.2010 and to allot the tenements to the remaining 51 persons of the association. Initially, an order of interim injunction was granted for a period of four weeks by order dated 04.03.2011. The respondent board filed a counter affidavit in the said writ petition. When the writ petition was taken up for disposal, this Court pointed out that the Sangam cannot espouse the cause collectively because some of the members have already been allotted and Sangam is not person aggrieved. In support of such finding, reliance was placed on the decision of the Hon'ble First Bench in *Tamilaga Asiriya Koottani* represented by the General Secretary V. Annamalai, No. 52, Nallathambi Street, Triplicane, Chennai - 5 reported in 2005 WLR 389. Accordingly, by order dated 03.01.2013, the writ petition was dismissed. However, liberty is given to the individual, who were aggrieved, to approach the respondent Board. Pursuant thereto, these petitioners have approached the respondent Board by way of representation. Along with the representation, the petitioners have enclosed the respective documents to show that they, their fathers and their grandfathers were continuously in the area much prior to the cutoff date fixed by the Government, namely 13.06.1984. Further, it is submitted that it is not known on what basis the Board rejected the names of 43 persons and passed an order dated 19.11.2010 and the order does not give any particulars more so when 69 members of the Association were accommodated. The learned counsel for the petitioner, after elaborately referring to the facts as stated above, submitted that the petitioners' representations may be sympathetically considered and these tenements are very small tenements and all the petitioners have sufficient records to establish their continued occupation and residence in that particular locality to qualify for allotment.

4. Heard the learned counsel appearing for the respondent Board on the above said submission.

5. As noted above, the Association challenged the order dated 19.11.2010 by which the respondent Board declined to grant allotment to 51 members. The only reason that appears to have prevailed with the Respondent Board to reject the

candidature of those 51 members is that they do not form part of the list provided in the earlier writ petition. It is to be noted that earlier writ petition was disposed of in the year 1992 and the enumeration or finalization of the list took place only in 2010. Therefore, all particulars which were made available should have been considered and each case could have been considered separately and reason could have been assigned, so that atleast the concerned member of the Association could have raised his objection to such order or placed material before the Board to reconsider his claim. However, the correctness of the order dated 19.11.2010 could not tested since the writ petition filed by the Sangam was dismissed on the ground that the Sangam cannot espouse the cause collectively because some of the members have already been allotted tenements and thus the issue still remains alive and it has to be examined as to whether the contention of the respondent Board that 51 persons are not eligible was justified or not.

6. This Court while dismissing the earlier writ petition vide order dated 03.01.2013, granted liberty to the individuals, who are aggrieved, to approach the respondent Board for allotment and the respondent was directed to consider the case of each petitioner independently on its own merits.

7. In the light of the above, the respondent Board is directed to conduct an enquiry, examine the documents produced by the petitioners and if necessary, call for additional documents or call upon the petitioner to explain any discrepancies in the document produced and after affording an opportunity of personal hearing, could consider the representation filed by the petitioners sympathetically if they are found otherwise eligible. The above said direction shall be complied with within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petitions are closed.