
(2008) 09 MAD CK 0085

In the Madras High Court

Case No : Writ Petition No. 4505 of 2007 and W.M.P. No's. 2, 3 and 5 of 2008

Paul Nadar and Others

APPELLANT

Vs

The District Officer and Others

RESPONDENT

Date of Decision : 25-09-2008

Acts Referred:

Citation : (2008) 09 MAD CK 0085

Hon'ble Judges : K. Chandru, J

Bench : Single Bench

Advocate : G. Prabhu Rajadurai, for the Appellant; R. Janakiramalu, Spl. Govt. Pleader for R.1 and R.2 and M.E. Ilango, for R6, R8 and R9, for the Respondent

Judgement

K. Chandru, J.—The seven petitioners were victims of the Tsunami that struck the coastal areas of the Tamil Nadu in the year 2005. They

claimed to be the residents of Vambar South Panchayat in Vilathikulam Taluk, Thoothukudi District. Equally so, the respondents 4 to 10 are also

the residents of the same Panchayat and victims of the same holocaust. When a mass disaster took place in the coastal lines of Tamil Nadu, many

helping hands were extended for the disaster victims. One such voluntary organisation by name CASA foundation came to the rescue of the

fisheremen in Vembar South village.

2. The said organisation entered into an agreement with the Government for building of 75 houses for the Tsunami victims in the Vambar South

Panchayat. It is the case of the petitioners that the Tahsildar, Vilathikulam, wrote a letter to the President of Vambar Panchayat stating that the list

of 75 families living within the 200 metres high-tide, the Government has to provide the houses, for which they wanted the Panchayat to give

approval for the list of names. In the list of 75, the names of the petitioners were found. It was approved by the Panchayat held on 08.06.2005.

3. Thereafter, the Panchayat President made a complaint stating that in the second list forwarded by the second respondent, the names of the

seven petitioners have been omitted. Therefore, a request was made to include those names, as they were also living within the 200 metres high-tide.

4. The second respondent, Tahsildar informed the beneficiaries that construction of 75 houses were over and since the selection of beneficiaries

was taking place, in finalising the list, the left out names will be considered. The Panchayat also passed a resolution on 03.03.2007 that the left out

names should be included. After sending complaints to various authorities, the present writ petition was filed.

5. It is at this stage one K.S. Rajagopal a resident of the village and public spirited person (the impleaded 11th respondent) filed a Public Interest

Litigation being Writ Petition No. 9838 of 2006 and sought for a direction to allot the houses built by CASA Foundation only to the beneficiaries

living within the 200 mtrs high tide. A division bench of this Court by an order dated 02.11.2006 granted an interim injunction from handing over

the keys to any of the beneficiaries. Subsequently, the writ petition came to be disposed of by an order dated 08.02.2007, with the following

directions;:

Therefore, we consider it appropriate to dispose of the writ petition with a direction to the respondents to consider the representation of the

petitioner dated 27.03.2006 within a period of twelve weeks from the date of receipt of a copy of this order.

6. Despite the District Collector was directed to consider a particular request, the present writ petition was filed and notice of motion was ordered.

An interim injunction was granted by this Court on 09.05.2007 from allotting the houses.

7. Pursuant to the direction by the division bench, the second respondent convened a number of meetings including on 11.04.2007 and

30.04.2007 and a consensus were arrived at in that meeting regarding the names of 75 beneficiaries. Aggrieved by the consensus decision arrived,

the seven petitioners has approached this Court and had obtained a blanket

injunction order. The contention of the seven petitioners was that the 75 houses must be given to the list of beneficiaries found in the list dated 16.05.2005. Attempt made by the 11th respondent and respondents 4 to 10 to vacate the interim order, did not fructify and all the houses remain unoccupied.

8. In the counter affidavit filed by the Tahsildar, Vilathikulam, dated 29.01.2008, in paragraph Nos. 15,16 and 17, it is averred as follows:

15. It is submitted that as already 75 deserved families list were approved by the Vembar South Panchayat President on 08.06.2005 for the

allotment of houses, endorsement from this dated 22.08.2006 has been given to the applicants of this writ petition on their representation stating

that as already 75 beneficiaries were listed out your request will be considered and houses will be allotted later.

16. It is submitted that as already 75 deserved families list were approved by the Vembar South Panchayat President on 08.06.2005 for the

allotment of houses, there is no room for the second thought of the Panchayat President to revise the list approved.

17. It is submitted all the 75 deserved families listed out and approved by the Panchayat President of Vembar South Panchayat on 08.06.2005 will

be allotted houses now constructed. Only the applicants of this writ petition have created such a misunderstanding among the public of the Vembar

village with an intention to create law and order problem and unrest among the villagers.

9. The District Collector, Tuticorin, pursuant to the direction issued by the Division Bench and after getting remarks from the second respondent,

called for a meeting. After consulting the 11th respondent and other important personalities in the village along with the Regional Deputy Tahsildar,

Revenue Inspector and Village Administrative Officers in the meeting held on 11.04.2007, a new list was prepared and he got it approved the

names of 75 persons, who will be the beneficiaries. Therefore, the list of beneficiaries prepared and approved in the meeting held on 11.04.2007

should be the list for which the houses must be allotted. In fact, the 7th petitioner, Savarial Packiyam's name also finds a place in the list.

10. It is rather unfortunate that because of the internecine quarrel between the beneficiaries, a crucial project has been stalled for over two years.

The 75 houses built for the beneficiaries have been lying vacant for the last two years, thereby causing misery to many. When the seven petitioners sought to challenge the list, there is no justification for them to stall the allotment of houses for 68 beneficiaries. They ought to have restricted their prayer for injunction only to seven houses. On the contrary, the attitude of the petitioners shows their narrow-mindedness and lack of sympathy for the other brethren, who are also punished by such litigation and without notice to them.

11. In any event, the controversy between the parties must be brought into an end by a proper, workable and legal solution. The first respondent had taken initiative in this regard and has finalised a list in the meeting held on 11.04.2007. He had obtained broad consensus, both from groups of fishermen as well as persons involved in the Tsunami relief work. Therefore, the writ petition stands disposed of with a direction to the first respondent and the second respondent to allot the houses identified by the District Collector vide his proceedings in I. No. 4/99059/2004 dated 09.05.2007 forthwith and report compliance to this Court immediately thereafter. Consequently, connected M.Ps are closed. No costs. A copy of the order first and second respondents immediately by the registry.

12. It is also observed that since the petitioners 1 to 6 are also sufferers due to Tsunami, the first and second respondents can think of providing some solace to them also after writing to the Government and getting approval to provide houses for them, if they are otherwise, eligible.