
(2009) 11 AP CK 0008
In the Andhra Pradesh High Court
Case No : Writ Petition No. 35993 of 1998

Vadlamudi Subba Rao

APPELLANT

Vs

A.P.S.E.B. and Another

RESPONDENT

Date of Decision : 24-11-2009

Acts Referred:

Land Acquisition Act, 1894 — Section 31

Citation : (2010) 1 ALD 538 : (2010) 1 ALT 636

Hon'ble Judges : Nootyramamohana Rao, J

Bench : Single Bench

Advocate : K. Sesharajyam, for the Appellant; K. Chidambaram, SC for AP Genco for Respondent Nos. 1 and 2, for the Respondent

Final Decision : Allowed

Judgement

Nootyramamohana Rao, J.—This writ petition has been instituted by an individual, whose land to an extent of Ac.1.50 cents in R.S. No. 3011 of Ibrahimpatnam Village, Krishna District, has been acquired by the State for the purpose of construction of Ash Pond of Vijayawada Thermal Power Station in the year 1986, seeking the respondent Andhra Pradesh State Electricity Board to consider the case of his daughter Ms. V. Bhagya Lakshmi for appointment against any suitable post in the service of the respondent.

2. The Andhra Pradesh State Electricity Board (APSEB) has since been bifurcated, by way of a statutory exercise, as Andhra Pradesh Generation Corporation (APGENCO) and Andhra Pradesh Thermal Corporation (APTRANSCO). The Vijayawada Thermal Power Station is now forming part of and is regulated by APGENCO. Therefore, it is the APGENCO, which has to answer the claim.

3. I have heard Smt. K. Shesharajyam, learned Counsel for the writ petitioner and Sri K. Chidambaram, learned Standing Counsel for APGENCO.

4. The learned Counsel Smt. K. Sesharajyam pointed out that a policy decision has been taken by the State Government to accommodate the land losers, by

way of providing employment, in APSEB to begin with and subsequently in its succeeding organizations APGENCO and APTRANSCO, as the case may be, as an additional measure of compensation to them. The learned Counsel submits that whenever vast extents of fertile land was completely and compulsorily acquired by the State for developmental activities, such as, construction of Thermal Power Stations, policy decisions are taken not only to compensate the land losers by way of payment of its market value as of compensation, but also to mitigate their hardships by providing an employment either to the land loser or to his immediate dependant, as the case may be. In the instant case the land of the writ petitioner to an extent of Ac.1-50 cents in R.S. No. 3011 of Ibrahimpatnam has been completely acquired for the purpose of construction of Ash Pond for Vijayawada Thermal Power Station. It is, therefore, obligatory for the respondent to consider the case of the dependant daughter of the petitioner for employment as prayed for supra.

5. The learned standing counsel would submit that the State Government has announced its policy decision through their G.O.Ms. No. 98, dated 15.04.1986, for providing employment to the land losers and also prescribed certain guidelines in that regard and the writ petitioner has never bothered to apply for such employment and in fact the scheme itself was closed as of now and hence, the APGENCO cannot be compelled to provide employment to the dependant daughter of the writ petitioner.

6. It is not in dispute that the writ petitioner was a land loser/land oustee. It is not further in dispute that the State Government has taken a policy decision to provide for employment either to such land losers or to their dependants in the organization for which the lands in question have been compulsorily acquired by it. The fact that the writ petitioner has not responded soliciting consideration of the case of his daughter for such employment should not negate the very objective of a socio-economic policy decision taken by the State Government. Persons who are known to be traditionally dependant upon agricultural operations and the activities therewith are not only emotionally attached to such lands belonging to them, but they are consequently dependant for their very sustenance and for their living upon such lands. When massive extents of lands are acquired by the State, it is imperative for the State to come up with not only payment of appropriate amount of compensation towards the market value of the land, but would also seek to mitigate the undue hardships of total ouster and displacement that would be caused of such land owners. It is not merely a case of losing a portion of the land owned by such persons for a public cause, but it is a case of complete displacement of the entire family, which is squarely dependant upon it for their sustenance and upon such agricultural operations, which they normally undertake. Carrying on agricultural operations is an avocation indulged in by such people. It is a useful way of life for them. Nay a purposeful way of leading a happy and contented way of life. They may not be suited to any other avocation. Therefore, when they part with fertile agricultural land, it is as good as separating the tree from its roots. Therefore, there is

greater sanctity behind the policy decision made by the State Government in this regard. They are not merely additional compensatory measures or mechanisms but they are intended to go a long way in resettling and rehabilitation of such land ousters and help them to stand up all over on their own. Further, the State Government could not have fixed any time limit for these benefits to be given to the dependants. For, it is not uncommon to find disputes touching upon the title to the land in question. In such cases, the Land Acquisition Officer may refer such disputes for adjudication u/s 31 of the Land Acquisition Act, to the Civil Court. Until and unless the Civil Court adjudicates such a dispute, the actual land oustee cannot be identified with necessary degree of precision. Till then, the question of considering the dependent's claim for employment may not arise. This whole exercise is certainly a time consuming affair and hence, the State, perhaps advisedly, could not have prescribed any time limit for entertaining the claims of dependents. Above all, the Corporation also would not be filling all the available vacancies with the land oustees only. They may require some vacancies to be filled in by way of promotion of internal candidates and certain percentage of vacancies may be reserved to be filled in with candidates drawn from open market by way of direct recruitment as well. Therefore, the Corporation also needs lot of time to exhaust the list of land oustees or their dependents.

7. Therefore, I do not agree with the contentions canvassed by the learned Standing Counsel that the benefits and fruits of the scheme of a social welfare measure announced by the State Government through their G.O.Ms. No. 98, dated 15.04.1986 should be denied to the writ petitioner only on the ground that there was some delay on his part in staking a claim for employment in favour of his daughter.

8. One cannot lose sight of the fact that most of our agriculturists are hardly educated and they would not be equally conscious of their rights and particularly when they are ousted from their living surroundings, it takes long time for them to fine tune their future course of action. Therefore, the delay that has occasioned on the part of the writ petitioner in soliciting consideration of the case of his daughter for appointment should not be allowed to be frustrated only on that ground. Further, the writ petitioner has been soliciting the employment in favour of a woman candidate. Women, when they are employed, are more likely to help a whole family to resettle themselves. There would be a greater dimension of social welfare achieved by allowing women to be employed suitably.

9. I therefore consider it appropriate to direct the respondents herein to take up immediately the case of the daughter of the writ petitioner, Ms. V. Bhagya Lakshmi, for employment against any suitable post existing in its organization and a decision in that regard be taken within a maximum period of six months from today. Otherwise, as and when a suitable post becomes available in the nearest future, her case may be considered. The writ petitioner shall communicate the latest address to the Andhra Pradesh Power Generation Corporation within fifteen days from today to which address the Andhra Pradesh

Power Generation Corporation shall communicate its decision by registered post.

10. With this the Writ Petition stands allowed. No costs.