

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

THURSDAY, THE 28TH DAY OF MAY 2015/7TH JYAISHTA, 1937

WP(C).No. 16983 of 2010 (W)

PETITIONER(S):

- 1. SHIHABUDEEN, S/O. AVUKKARU PILLAI,
NOW RESIDING AT TC 70/973, KAITHAVILAKOM PURAYIDOM
BHEEMAPPALLY, THIRUVANANTHAPURAM DISTRICT.**
- 2. ANWAR, S/O.MUHAMMED SALI,
TC 70/688, KADALVARAM PURAYIDOM, BHEEMAPPALLY
THIRUVANANTHAPURAM DISTRICT.**

BY ADV. SRI. M. SREEKUMAR

RESPONDENT(S):

- 1. STATE OF KERALA,
SECRETARY TO GOVT.,REVENUE DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM.**
- 2. DISTRICT COLLECTOR, THIRUVANANTHAPURAM.**

BY ADV. GOVERNMENT PLEADER SRI. SOJAN JAMES

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 28-05-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P-1: TRUE COPY OF THE REPRESENTATION FILED BY THE 1ST PETITIONER BEFORE THE HON'BLE MINISTER DATED 09.02.2010.
- EXT.P-2: TRUE COPY OF THE REPRESENTATION FILED BY THE 2ND PETITIONER BEFORE THE HON'BLE MINISTER DATED 09.02.2010.
- EXT.P-3: TRUE COPY OF THE REPORT NO. 280/10 OF VILLAGE OFFICER DATED 10.02.2010 IN THE CASE OF 1ST PETITIONER.
- EXT.P-4: TRUE COPY OF THE REPORT OF THE VILLAGE OFFICER DATED 10.02.2010 IN THE CASE OF 2ND PETITIONER.

RESPONDENT(S)' EXHIBITS - NIL

//TRUE COPY//

P.A. TO JUDGE

ANIL K. NARENDRA, J.

W.P.(C) No.16983 of 2010

Dated this the 28th day of May, 2015

JUDGMENT

According to the petitioners, they are fishermen at Beemappally in Thiruvananthapuram District, who were earlier residing in houses bearing Nos. TC 45/552 and TC 45/425, who lost their residential houses due to the tsunami which hit the shores of Kerala during December 2004. In order to rehabilitate the tsunami affected persons at Beemappally, the Government constructed 31 houses at Azad Nagar. Out of 31 houses, 16 houses were already allotted and the remaining 15 are yet to be allotted.

2. According to the petitioners, they are the most eligible persons entitled for allotment of those houses. The petitioners have submitted Exts.P1 and P2 representations before the Minister of Revenue, which were forwarded to the 2nd respondent for examination and to take necessary action. As directed by the 2nd respondent, the Village Officer, Muttathara forwarded Exts.P3 and P4 reports through the Sub-Collector, Thiruvananthapuram, stating that the petitioners are entitled for

allotment of houses under the Tsunami Rehabilitation Scheme. The grievance of the petitioners highlighted in this writ petition is that though Exts.P3 and P4 reports were forwarded to the 2nd respondent as early as on 10.2.2010, no follow up action has been taken. It was in such circumstances, the petitioners have approached this Court in this writ petition seeking a writ of mandamus commanding the 2nd respondent to consider Exts.P1 to P4 and to allot houses to the petitioners under the Tsunami Rehabilitation Scheme at Beemappally.

3. A counter affidavit has been filed on behalf of the 1st respondent, in which it has been stated that out of 31 houses constructed at Beemappally under the Tsunami Rehabilitation Scheme, 16 houses were already handed over to 16 beneficiaries vide proceedings No.A19-66282/06 dated 04.12.2008, who were selected through an enquiry conducted by the Sub Collector, Thiruvananthapuram. On a further enquiry conducted by the Tahsildar, Thiruvananthapuram to find out the most eligible beneficiaries for the remaining 16 houses, as per the directions/guidelines issued by the Government and the District Collector, the Tahsildar submitted a list of 15 eligible beneficiaries and the same was approved by the District Level

Monitoring Committee on 11.06.2010. Thereafter, vide Order No.K19-66282/06 dated 11.06.2010, the District Collector has accorded sanction for allotment of 15 houses to those 15 beneficiaries selected by the District Level Monitoring Committee.

4. A reading of the counter affidavit filed on behalf of the 1st respondent would show that the criteria fixed for eligibility was that those persons living within 10 meters from sea limit will be given top priority and those who lost their houses due to the Tsunami will also given top priority. The application submitted by the petitioners were considered in the light of the above criteria and a list containing 15 beneficiaries were submitted by the Tahsildar, Thiruvananthapuram for approval and the District Level Monitoring Committee has approved the same. The 1st petitioner was included in the list of beneficiaries and he was allotted house No.7. As far as the 2nd petitioner is concerned, he does not come within the purview of Tsunami Rehabilitation guidelines published by the Government and hence no house was allotted to him.

5. Heard the arguments of the learned counsel for the petitioner and also the learned Senior Government Pleader for

the respondents. The learned counsel for the petitioner has also submitted that the 1st petitioner is not having any subsisting grievance as he has already been allotted house. I have considered the rival contentions made by the Bar.

6. Going by the stand taken in the counter affidavit filed on behalf of the 1st respondent, it is evident that the allotment of houses in the Tsunami Rehabilitation Scheme was based on selection of beneficiaries in terms of the directions/guidelines issued by the Government and the District Collector. After conducting an enquiry, the Tahsildar submitted a list containing the name of 15 beneficiaries in which the name of the 2nd petitioner was not included as he does not come within the purview of the Tsunami Rehabilitation Guidelines issued by the Government. It was in such circumstances, the 2nd petitioner was not allotted house under the said Scheme.

7. The 2nd petitioner has not chosen to file reply affidavit controverting the averments in the counter affidavit filed on behalf of the 1st respondent. No materials are on record to indicate that the reasoning of the 1st respondent that the 2nd petitioner does not come within the purview of Tsunami Rehabilitation Guidelines issued by the Government is either

perverse or patently illegal. In the absence of any such material, this Court would not be justified in interfering with the above reasoning of the 1st respondent. Further, the 2nd petitioner has not also chosen to challenge the proceedings of the District Level Monitoring Committee approving the list of beneficiaries for allotment of 15 houses under the Tsunami Rehabilitation Scheme and also the action of the respondents in allotting such houses to those beneficiaries.

In the result, the 2nd petitioner is not entitled for any of the reliefs prayed for. The writ petition fails and the same is dismissed. No order to cost.

SD/-
ANIL K. NARENDRAN,
JUDGE

JV