

HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.24487 of 2009

Date: 18.03.2015

Between:

R.Balakrishnan, S/o.Ramaswamy, Aged about 64 years,
Occu:Cultivation & Coolie, r/o.Nagalapuram East
Harijana Colony, Nagalapuram Village, Nagalapuram Mandal,
Chittoor District and others.

.. Petitioners

AND

The Government of Andhra Pradesh, rep.by its Prl.Secretary,
Revenue Department, Secretariat Buildings, Hyderabad and
others.

.. Respondents

The Court made the following:

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ORDER:

Petitioners are residents of Nagalapuram village of Chittoor District and belong to Harijana Community. Petitioners are landless poor. Petitioners submitted a representation to the District Collector, Chittoor, to assign Government land which was found to be idle in the village. Alleging that no orders are passed on the said representation submitted to the District Collector, this writ petition is instituted.

2. Heard learned counsel for the petitioners and the learned Assistant Government Pleader for Revenue for State of Andhra Pradesh.

3. Learned counsel for the petitioners contends that petitioners being landless poor belonging to Harijana Community are entitled for assignment of Government land and it is the policy of the Government to provide land to landless poor. Huge extent of land in Nagalapuram village is kept vacant and not assigned to the petitioners. Learned counsel further contends that even though interim order was passed by this Court directing the 2nd respondent to consider representations of the petitioners and a notice was issued in consequence to the said interim order calling upon the 2nd respondent to consider their representations, no action is taken and so far no orders are passed on the representations submitted by the petitioners. Such action of the respondents is arbitrary and illegal.

4. Learned counsel further contends that Araniar Project constructed in the erstwhile State of Madras, resulted in displacement of persons of Mudiyr village in that State and present State of Tamilnadu. When Chittoor District was part of Madras State, this project was constructed and, therefore, scheme was formulated to provide alternative lands for the project displaced persons in Nagalapuram Village of Chittoor District. 412.41 acres in black tank of the village was identified for such assignment. Thereafter, 230 displaced persons of Mudiyr village were identified, who were affected by the construction of Araniar Project, for assignment and allotted 230 acres of land, one acre per family on payment of Rs.1,000/-. Learned counsel therefore submits that on account of assignment of 230 acres of land to project displaced persons, the issue has come to close and the remaining extent of land ought to have been allotted to the

deserved landless poor persons of the village. For no justifiable reason or cause, the land is kept idle and even now the authorities project the said land to be assigned to the persons displaced on account of Araniar project in State of Tamilnadu. The project was constructed in the year 1953 and even after 60 years, this land is kept reserved for the project displaced persons of State of Tamilnadu. Learned counsel therefore contends that such action is arbitrary and illegal.

5. Learned counsel placing reliance on the orders 15.4.1, 15.10.2 and 15.10.3 of the Board Standing Orders (BSO), contends that keeping the land reserved endlessly and not allotting the land, as per the scheme envisaged in Board Standing Orders, to deserving needy people amounts to arbitrary exercise of power and such action is liable to be declared as illegal and unconstitutional.

6. Learned Assistant Government Pleader submits that the land to an extent of 412.41 acres was initially identified for allocation to the project displaced persons of Mudiur village and allocation was made to some of the displaced persons and though there are several claimants as the records of identity are not available, such allocation was not made. Learned Assistant Government Pleader further submits that still there are requests made by the displaced persons for allocation of the land and, therefore, the land cannot be diverted for allocation to the petitioners. The project displaced persons earlier instituted W.P.No.15942 of 2002 in this Court against any action of allocating the land to any other persons other than the project displaced persons as land was earmarked for them. Stay was granted by this Court and, therefore, the representation of the petitioners could not be considered. He further contends that 'Grama Sabha' was conducted by the Tahsildar, Nagalapuram, on 08.10.2009 and 22.10.2009 for the purpose of selection of eligible beneficiaries for grant and distribution of surplus land. But since persons have not come forward for amicable settlement, the issue is pending as such.

7. There is no dispute that Araniar project was constructed within the State of Madras (present State of Tamilnadu). This project was constructed some time in the year 1953. On account of construction of said project, several families were displaced from their lands and properties. At that time the territories of Andhra were part of Madras State and, therefore, after formulation of the scheme of rehabilitation, the land to an extent of 412.41 acres in Nagalapuram village in Chittoor District of State of Andhra Pradesh, which is called as Black Tank was

identified for assignment of the displaced persons. Initially, the assignment proposed was 2½ acres. However, even after formation of State of Andhra Pradesh, the said scheme was continued and 230 displaced persons were identified as eligible for assignment and they were assigned Ac.1.00 each. Though there was demand for assignment for extent of land as originally envisaged, Government decided to restrict to granting Ac.1.00 only to each of the displaced families. The remaining extent of land was not utilized since the relevant particulars of the persons who were displaced and who were claiming for such assignment were not available.

8. As per the counter-affidavit, till today Ac.104.93 of land in black tank of the village is available for assignment. Even after 60 years, scheme of such assignment is not wound up. Therefore, the Government records disclose the land as made for assignment to the displaced families of Mudiyr and even after 60 years Government is still waiting for claims to be made for allocation of said land, notwithstanding the fact that the States are bifurcated and the project is no more within the territories of present State of Andhra Pradesh.

9. In this contest, it is appropriate to notice the relevant clauses of the Board Standing Orders. Order 15 of BSO deals with grant of lands for occupation subject to payment of assessment. Sub-clause 4 of Order 15 of BSO deals with lands that may be assigned and that may not be assigned. In Note-1, appended to sub-clause 4, it mandates that whenever applications for assignment of lands classified as porambokes are received, the same should be examined as to whether the lands are really required for the purpose for which they were originally set apart, or for any other purpose, and if they are not so required, steps should be taken to convert them to ayan and assign them. Sub-clause 10 deals with order of preference among the landless poor applicants. According to sub-clause 10.2, if there are more applications from landless poor than available land, preference should be given to the persons, who own no land at all. Furthermore, between Sivoijmadar and a non-Sivoijmadar, the Sivoijmadar in continuous occupation of the land should be given preference. Sub-clause 10.3 further envisaged that preference be given to the members of the Scheduled Castes/Scheduled Tribes etc.

10. In terms of the above three provisions of Order 15 of BSO, it is clear that if particular piece of land is identified for particular purpose and if that purpose is

not executed and if there are applications submitted for assignment, the land should be accordingly converted and assignment can be made. While taking steps to assign, in accordance with clause 15.10.3, preference should be given to Scheduled Castes/Scheduled Tribe candidates and according to order 15.10.2, further preference be given as mentioned therein.

11. In the instant case, as noticed above, land in black tank was set apart for assignment to the project displaced persons when the present Chittoor District was forming part of the State of Madras. The concerned project was constructed as early as in the year 1953. As per the commitment made when the Chittoor District form part of State of Madras, the desirability of allocation of the land is continued even after bifurcation. No explanation is forthcoming as to why the State of Andhra Pradesh is sticking to such commitment and ignoring the demand of local landless poor.

12. The question of keeping unassigned land for the said purpose even after 60 years is not justified, more particularly, when the project by which the persons were displaced belong to the State of Tamilnadu and no way concerned to the State of Andhra Pradesh. Such action is contrary to the Board Standing Orders.

As stated by learned counsels on either side, there is no restraint on diverting the land for any other purpose. Thus, the action of the respondent authorities in keeping the land as continued to be earmarked for assignment to the Araniar project displaced persons is not justified for such a long time and is contrary to Board Standing Orders.

13. Having waited for considerable time, the petitioners have also represented to the Government and in response, Government by their memo dated 30.05.2011 directed the District Collector, Chittoor, to examine the contents of representation and furnish a report to the Government. It appears so far no report is furnished. Even though the Joint collector issued notice in pursuant to the direction issued by this Court, there was no further progress for the reasons not specified. The action of the respondents in not passing orders as directed by this Court also speaks volumes of the total disregard to the orders passed by this Court and not attending to the grievance without any justification.

14. Having regard to the fact that interim order was already passed by this Court and representation submitted by the petitioners is pending with respondents since the year 2007, the writ petition is disposed of directing the

Joint Collector, Chittoor, Chittoor District (2nd respondent) to consider the representation submitted by the petitioners and pass appropriate orders with reference to assignment of land by duly taking note of the Board Standing Orders 15.4.1, 15.10.2 and 15.10.3 and pass appropriate orders as warranted by law within a period of six weeks from the date of receipt of a copy of this order.

Miscellaneous petitions if any pending in this writ petition shall stand closed.

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