

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 32650 of 2012

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ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader for the respondents.

2. The present writ petition came to be filed seeking writ of *mandamus* declaring the impugned proceedings of the 1st respondent in R.C.No.E3/2450/11 dated 25.09.2012, as arbitrary and illegal.

3. The averments in the writ petition are as under:

The petitioner claims to be freedom fighter and getting pension under Central Scheme vide P.P. No.MHA.FF/0413315/ POL/Central since 2004. It is averred that as the freedom fighter is entitled for assignment of Government land, though getting Freedom Fighter Pension, he made a representation on 24.01.2006 to the District Collector, Khammam, Khammam District (1st respondent), for allotment of Government land as per his eligibility in recognition of his Freedom Fighter Pension. On the said representation, the District Collector, Khammam District, vide letter in R.C.No.E3/614/2005 dated 21.03.2006, directed the Mandal Revenue Officer, Aswaraopet, Khammam District (2nd respondent), to take

necessary action in the matter according to rules in force. As there was no reply, the petitioner made another representation on 04.09.2008 to the Mandal Revenue Officer, Aswaropet, Khammam District, mentioning that the Government vacant land is available in Survey No.909 of Papatigudem revenue village and also the land in Survey No.297 of Utlapalli village of Aswaraopet Mandal, Khammam District, but no steps were initiated. While things stood thus, the 1st respondent, vide his proceedings in R.C.No.E3/302/2010, dated 20.04.2010, directed the Tahasildars of various places to examine the representations of the petitioner and cause enquiry into the details for providing Government Agricultural land/house site, as requested by the petitioner. The 2nd respondent is said to have made enquiries and submitted his report recommending for assignment of Government land in Survey No.909 of Aswaraopet village, Khammam District. He also enclosed report of MRI, Aswaraopet, MS of Aswaraopet with location sketch. The inaction of the respondents lead to filing of W.P. No.25755 of 2012 before this Court seeking direction to the respondents to consider the case of the petitioner for allotment of Government land in pursuance of the report vide R.C. No.B/285/2012 dated 27.05.2011. This Hon'ble Court, by an order dated 21.08.2012, directed the 1st respondent to pass appropriate orders on the application submitted by the petitioner for assignment of land within a period of four

weeks from the date of receipt of a copy of the order. But the 1st respondent is alleged to have passed the impugned proceedings rejecting the request of the petitioner. Challenging the same, the present writ petition is filed.

4. The 2nd respondent filed counter denying the averments made by the petitioner. It is stated in the counter that the Government has issued G.O.Ms.No.185 Revenue (Assignment-1) Department dated 11.03.1997 stating that the assignment of land for agriculture purposes shall not be considered unless the land is available in the native village of the freedom fighter, where it is not required for any public purpose and house site. It is further stated in the counter that later the Government has issued orders vide G.O.Ms.No.181 (Assignment-1) Department dated 15.02.2006 making modification as “within the native district” instead of “within the native village” and the Government also has issued G.O.Ms.No.1493 Revenue (Assignment-POT) Department dated 01.12.2007 to the extent that all the vacant Government lands situated within the two kilometres from the periphery of Mandal Headquarters are banned from alienation except in the case of house sites. The counter averments further show that the writ petitioner is below 15 years in the month of March, 1947, as verified with the voters list 1995, wherein it recorded the age of the

writ petitioner as only 50 years. In view of the above, the request of the petitioner was alleged to have been rejected.

5. A reply came to be filed by the writ petitioner denying the contents of the counter. According to the petitioner, the proposed land was not covered by eucalyptus trees as claimed by the Forest Department, and it is originally reserved forest land. It is denied that the trees were aged about 6 to 7 years and there is no vacant land and that the report submitted by the Tahasildar, Aswaraopet dated 27.05.2011 was defective. It is his case that the report dated 27.05.2011 is based on enquiries and survey conducted by the Tahasildar while recommending for assignment of Government land in Survey No.909 of Aswaraopet village, Khammam District. In view of the above, he submits that the averments in the counter are all false and baseless.

6. But one fact, which emerge out from the above, is that the request of the petitioner appears to have been rejected on the ground that he is not entitled for Freedom Fighters Pension, since he was only 15 years in the year 1947. The record reveals that the petitioner is paid Freedom Fighter Pension till date and the amount is being credited to his account at Canara Bank, Khammam. According to the petitioner, the findings arrived at by the District Collector has no nexus with the

request made by him (petitioner). It is to be noted that the petitioner was not put to any notice and without hearing him. The authorities have come to a conclusion that the petitioner is not even entitled to Freedom Fighters Pension. The same appears to have been recommended in the year 2012 itself. But in spite of the same, the petitioner is being paid the pension. Be that as it may, as stated earlier, the said order came to be passed without hearing the petitioner, thereby violating the principles of natural justice.

7. Having regard to the circumstances of the case, the writ petition is allowed and the order under challenge is set aside directing the 1st respondent to pass orders afresh after giving notice to the writ petitioner. It is needless to mention that the petitioner is at liberty to place the entire material before the authorities. Further, the respondent-authorities shall complete the entire process within a period of eight (8) weeks from the date of receipt of this order and the petitioner shall co-operate with the respondent-authorities. There shall be no order as to costs.

8. Miscellaneous petitions, if any, pending in this writ petition, shall stand dismissed.

JUSTICE C. PRAVEEN KUMAR

9th December, 2015

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