

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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WRIT PETITION No.14960 of 2013

ORDER:

Heard the learned Counsel for the petitioner, the learned Standing Counsel for respondent Nos.1 and 2, and the learned Counsel appearing for respondent No.3.

The case of the petitioner is that he made an application for allotment of plot No.44 in Industrial Park at Aganampudi, Visakhapatnam. Respondent Nos.1 and 2 developed 63 plots for allotment to different industries. The petitioner belongs to Scheduled Caste community. As per G.O.Ms.No.102, dated 19.06.2012, the Government of Andhra Pradesh took a policy decision during the Industrial Investment Promotion Policy 2005-2010 to reserve an extent of 16.2% and 6% plots in the industrial parks of Andhra Pradesh Industrial Infrastructure Corporation (APIIC) for exclusive allotment to Scheduled Caste and Scheduled Tribe entrepreneurs respectively. In pursuance of the said Government Order, the first respondent issued circular No.404/AMW/2012, dated 05.10.2012, for reservation of plots to Scheduled Caste and Scheduled Tribe candidates. It is the further case of the petitioner that till 05.03.2013, the date on which allotments for Aganampudi were considered, there were no allotments of plots to Scheduled Tribe applicants. In respect of the present phase of allotments, though 10 plots should be reserved to Scheduled Caste applicants, only 9 applications were considered and recommended. One plot meant for Scheduled Caste candidate was allotted to the third respondent. In respect of plot No.44, five applications were received, out of which four applications belonged to Scheduled Caste community. The pre-scrutiny committee awarded equal marks of 5 to the petitioner as well as to the third respondent. Instead of considering the candidature of Scheduled Caste applicant and seniority, the plot was allotted to the third respondent by proceedings in letter No.44/HE/IP/ Aganampudi/ZO/VSP/2013, dated 02.05.2013. It appears that the allotment was made in favour of the third

respondent on the ground of higher proposed investment and employment. The petitioner submitted complaints to the grievance cell on 25.04.2013 and 01.05.2013. Respondent Nos.1 and 2 gave a reply stating that the State Level Allotment Committee in its meeting held on 30.04.2013 approved the allotment of plot No.44. Challenging the said allotment in favour of the third respondent, this Writ Petition was filed.

This Court, by order dated 22.05.2013, while ordering notice before admission granted interim stay.

A counter affidavit is filed on behalf of respondent Nos.1 and 2 stating that the layout of industrial park Aganampudi was developed with 63 plots in an extent of Acs.44.61 cents. When 35 plots were lying vacant, they were proposed for allotment by inviting applications online. It is admitted that 10 plots should go to the Scheduled Caste community in the said layout. Since in the earlier allotment no plot was allotted to the Scheduled Caste category, respondent Nos.1 and 2 intended to earmark 10 and 4 plots to the Scheduled Caste and Scheduled Tribe categories respectively in the vacant 35 plots. 71 applications were placed before the District Level Pre-Scrutiny Committee, which in its meeting held on 05.03.2013 scrutinized the applications and documents furnished by the applicants. The marks were awarded based on the viability of the project and keeping in view the proposed investment and employment generation for the proposed project. Another meeting was held on 08.03.2013, wherein six applications were placed for allotment. The District Level Committee recommended for allotment of plots to 9 Scheduled Caste and Scheduled Tribe applicants in its meeting held on 05.03.2013 allotting single plot to single applicant. In its subsequent meeting held on 08.03.2013, four more Scheduled Caste category applicants were recommended for allotment. Thus, a total of 13 candidates and 2 candidates respectively belonging to Scheduled Caste and Scheduled Tribe communities were considered for allotment. In relation to plot No.44, five applications were received and the petitioner had submitted two separate applications in two names under Scheduled Caste category. The petitioner and the third respondent got five credits. Since there was a tie and as the third respondent had promised better

prospects in terms of project viability and employment generation over the petitioner, the third respondent's application was recommended for allotment. The agenda of the District Level Committee meeting was placed before the State Level Committee, which in its meeting held on 30.04.2013, took a decision to consider the allotment of plot No.44 to the third respondent. Accordingly, provisional allotment order was issued on 02.05.2013.

The third respondent also filed a separate counter affidavit stating that the petitioner is not an entrepreneur and he is the son of the Deputy Zonal Manager in the first respondent Corporation. It is also alleged that the father of the petitioner got more than 12 plots in the states of Telangana and Andhra Pradesh in the name the partnership firms in which the family members of the petitioner are partners. After allotment, they have alienated some of the said plots to third parties and some plots are being run by benami persons. The counter affidavit also indicates the instances where the petitioner and his sister submitted applications separately in respect of different plots. The third respondent states that she is a women entrepreneur and an EDP Trainee Technocrat. There is already an over allotment for the Scheduled Caste category candidates. As against 10 plots for which they are entitled, 13 plots were already allotted. It is also alleged that the petitioner is a benami of a forward caste entrepreneur, who was already allotted plots in various industrial parks set up by the first respondent.

The petitioner filed separate reply affidavits to the counter affidavits filed by respondent Nos.1 and 2 on the one hand and the counter affidavit filed by respondent No.3 on the other hand. In the said reply affidavits the petitioner refuted the allegations levelled against him.

In the light of the above facts and circumstances of the case, the following two points arise for consideration:

- (i) Whether there is adequate representation to the Scheduled Caste

candidates while allotting plots in Aganampudi industrial plot?

(ii) When there is a case of tie between the petitioner and the third respondent, whether the decision of respondent Nos.1 and 2 in preferring the third respondent is valid or not?

So far as the first point is concerned, in the counter affidavit it is stated by respondent Nos.1 and 2 that the District Level Committee in its meeting held on 05.03.2013 recommended the case of nine Scheduled Caste applicants, whereas in its meeting held on 08.03.2013 recommended the cases of four more Scheduled Caste candidates. Thus, the quota of 13 Scheduled Caste candidates is more than the quota of 10 Scheduled Caste candidates entitled to be considered under reservation. In view of the same, this point does not survive for consideration and the petitioner cannot claim that his application should be considered under reserved quota.

Coming to the second point of preferring the third respondent to that of the petitioner, even though the petitioner got five marks, after scrutiny of his application, it is to be noted that the case of the third respondent was recommended by the District Level Pre-Scrutiny Committee, and the same was approved by the State Level Allotment Committee. Those bodies comprise of various members and their decision cannot be found fault with. In the circumstances, the second point also does not survive, and this Court cannot interfere with the decision taken by the plurality of persons comprising the Committee. The petitioner did not allege any *mala fides* against the Committee, and in view of the same, it cannot be held that the provisional allotment made in favour of the third respondent is bad in law.

The Writ Petition is, accordingly, dismissed. The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

22.06.2015

Note: LR copy to be marked: No

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