

HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

PRESENT

THE HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.36930 OF 2014

DATED: 15.06.2015

Between:

Thathireddy Tulasamma and others

... Petitioners

and

Andhra Pradesh State Scheduled Caste Cooperative
Finance Corporation Limited and others

... Respondents

THE HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.36930 of 2014

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PC: (*Per the Hon'ble Sri Justice S. V. Bhatt*)

Heard learned counsel for the parties.

The petitioners, in this Writ Petition under Article 226 of the Constitution of India, seek to challenge the constitution of Mandal/Municipal Level Screening-cum-Selection Committee, for selection of eligible beneficiaries, by excluding the local elected representatives of the local bodies and including social workers to be the members of the said Committees as illegal, arbitrary and unconstitutional. Further, the petitioners seek direction to the respondents to select eligible beneficiaries through the elected representatives of the local bodies and not through social workers.

Briefly referred the case of petitioners is that they are elected representatives of Jammalamadugu and Yerraguntla municipalities and Presidents of Mandal Parishads of 5 Mandals, namely, Jammalamadugu Rural, Muddanur, Pedda Mudiyam, Mylavaram and Yerraguntla. They being elected representatives, they are interested in overseeing and proper implementation of the Scheduled Caste Action Plan 2014-15 (for short 'SCAP') by extending financial assistance to eligible beneficiaries.

From the material available on record, it appears that the Government issued guidelines, instructions and orders for implementation of SCAP. Under the SCAP plan, respondent No.1 Corporation extends loan to the eligible persons belonging to Scheduled Caste category. For effective implementation of SCAP, the 1st and 2nd respondents in pursuance of the instructions, guidelines and orders constituted the Mandal/Municipal Level Screening-cum-Selection Committee for selection of eligible beneficiaries consisting of Mandal Parishad Development Officer, 3 Social Workers, Managers of all Branches in the Mandal, Representatives of Scheduled Caste Corporation, Representative of DRDA and President of Mandal Mahila Samakya. The Mandal Parishad Development Officer/Commissioner of Municipalities/ Corporation under the proceedings, dated 23.11.2014 (P.1) was expected to select the eligible beneficiaries in consultation with the members of the Committee, among the applicants registered in Online Beneficiary Monitoring and Management System for all the Corporations/Societies Action Plans for the year 2014-15. The factual and legal objections against the process of selection of eligible Scheduled Caste beneficiaries are that the Committee now constituted is a non-statutory Committee, the use of words 'social workers' is vague and not defined, through the participation of social workers/ President Mahila Samkhya, eligible applicants are likely to be denied assistance under SCAP due to political considerations and likelihood of injustice cannot be overlooked. It is also the case of petitioners that if at all, representation to non-officials is provided being representatives of local bodies they should also be included in the Committee.

The Principal Secretary to the Government, Social Welfare Department /respondent No.5 filed counter-affidavit on behalf of the respondents.

That the composite State of A.P. issued G.O.Ms.No.101 SW(SCPI) Department dated 31.12.2013. The guidelines provide for exigencies in implementation of Self Employment

schemes in the State. It is further stated that the role of selection committee is well understood and the final decision in extending financial assistance is with the respective Banks.

The relevant portion of counter affidavit on method reads as follows:

“The mode, method and manner of working out of identifying the genuine persons is as follows:

Any person who intends to seek financial assistance under any of the programmes enumerated under the G.O. referred to herein above, has to register himself On-Line in the Website/Portal, namely Online Beneficiary Monitoring and Management System (apobmms.cgg.gov.in). the said application would be processed by the committee and the committee's role is limited only to identify the genuineness and eligibility of the applicant and nothing beyond. As already stated, it is the Bank that would have the last say. Even in the composition of the Committee, there are more number of officials than social workers. The social workers have to identify the local persons and nothing beyond it.

Before the bifurcation of the State of Andhra Pradesh, in the State of Andhra Pradesh, there were as many as 1303 Mandals and after the bifurcation in the State of Andhra Pradesh, there are as many as 771 Mandals. (Enclosed herewith is a statement indicating the dates on which the Committees have been constituted, the number of persons who have been identified under the schemes for financial assistance to be given by the bank). A reading of the statement is self-explanatory. The banks, out of the total number of applications received, have in fact accorded sanction only to 21167 applicants and have rejected 820 applications under spill over cases of SC Action Plan 2013-14. The petitioners in the Writ Petition chose not even to question the validity of the said G.O. No doubt, the implead petitioner questioned the same by making an averment in the Affidavit.”

He has further stated that the funding of the Scheme is made by Union of India as well as State Government. It is also brought on record in the counter-affidavit that as many as 53158 Scheduled Caste beneficiaries' lives, who have been identified, due to present W.P. and interim order are precluded from receiving the monetary funding by the banks, who decide the merit of the applicants. In paragraph 7 of the counter-affidavit of respondent No.5, has further stated thus:

“With regard to the averments made in Paragraph 4 of the Affidavit under reply, it is humbly submitted that the averments have been made/invented only for the purpose of the present Writ Petition. The petitioners knew fully well that the entire exercise has been done and as already submitted, as many as 1,68,090 persons have been registered and 53,158 have been targeted for selection under SC Action Plan 2014-15 and their cases are under way for the eventual financial assistance by the respective banks. As already submitted, if the bank

desires not to give loan to them, the question of paying subsidy also does not arise to them. The loan amount is not disbursed by the State. The loan amount is disbursed by the Bank. The Banks have not been made as a party to the Writ Petition and therefore the Writ Petition is liable to be dismissed. No material has been shown by the writ petitioners/implead petitioners that there was arbitrariness in the matter of identifying the genuine beneficiaries who have already been identified and those identified persons are also not made parties to the instant Writ Petition. Such of those allegations, averments and contentions, which are not specifically denied herein are deemed to be denied.”

In this backdrop, we have heard learned counsel for the parties for sometime.

Mr. V.Venkata Ramana, learned Senior Counsel appearing for the petitioners, at the outset, submitted that constitution of committee itself is illegal and assistance of such committee cannot be taken for implementing a statutory scheme. He submitted that under the guise of appointing 3 social workers on the Committee, the Government may appoint persons belonging to their political party/supporters as members for extending monetary benefit to the beneficiaries. He submitted that there is no clear cut definition of ‘social worker’ and if constitution of the committee, as has been done in the instant case is allowed, the genuine and real beneficiaries will be deprived of loan which they are otherwise entitled under the scheme. It was submitted that to extend the help to genuine beneficiaries, the Government ought to have appointed elected representatives viz., the petitioners on the Committees.

Learned counsel invited our attention to the statements made in WPMP No.48325 of 2014 to contend that the petitioners of that Writ Petition, which was ultimately merged into the instant Writ Petition, had specifically stated the persons included in the Committees belong to ruling political party, and in view thereof, the constitution of committee deserves to be set aside.

It is contended for the petitioners and respondent No.4, who are supporting the petitioners, that on account of inclusion of political activists in the Committee as social workers would result in arbitrary exclusion of a few eligible applications made to the Committee. The 4th respondent assails the constitution of Committees, referring to a few alleged instances of deprivation or discrimination in the matter of accepting the application for financial assistance under SCAP. As a contention is put forward by the learned counsel the same is adverted to, but it is made clear that the denial or deprivation of financial assistance to a person otherwise eligible under SCAP, has independent cause of action and the person so affected by such decision, if chooses, is certainly entitled to challenge the denial of assistance to which he is otherwise entitled to. At the same time we do not consider such stray or individual instances in deciding the challenge laid to the constitution of the Committees. Therefore, in the present order, this Court is neither considering the individual grievances nor pronouncing any view on the aspects brought out by the 4th respondent. On the other hand, the learned Advocate General appearing for the 5th respondent contends that

the challenge in the writ should fail in view of G.O.Ms.No.101 SW (SCPI) Department dated 31.12.2013 and that it is made on clear misunderstanding of the role of selection committee.

Having considered the material available on record and the submissions of learned counsel appearing for all the parties, the issue that arises for consideration is whether the constitution of Mandal/Municipal levels Scrutiny-cum- Selection Committees for selection of eligible beneficiaries through the proceedings dated 23.11.2014 suffers from illegality or irregularity and that the petitioners have right for inclusion in the Selection Committee constituted through proceedings dated 23.11.2014?

As already noted G.O.Ms.No.101, Social Welfare (SCP.I) Department dated 31.12.2013 contains guidelines for implementation of self employment schemes. According to the Counter Affidavit of Principal Secretary/respondent No.4, the said G.O. provides for composition of the Scrutiny-cum-Selection Committee which reads as follows:

- I. MPDO / Municipal Commissioner (Municipality)/Zonal Commissioner (in case of Municipal Corporation)-Convener.
- II. Three Social workers of which one is a women to be nominated by the Minister in charge of the District.
- III. Managers of all Banks in the jurisdiction of the Mandal.
- IV. Representatives of the welfare finance corporations i.e. A.P. Scheduled Caste Finance Co-operative Corporation, B.C. Finance Corporation, TRICOR, A.P. Minorities finance Corporation, A.P. Christian Minorities finance Corporation, A.P. Handicapped welfare Department/ W & CD / Minorities/BC/EO(RD) representative of the ESS per Mandal.
- V. Representative of DRDA
- VI. President Mandal Mahila Samkhya Town / Slum level federation in respect of Municipalities and Municipal Corporations.

(d) In respect of SC &ST families the house hold survey data as collected by the SERP and MEPMA shall be used in prioritizing the applicants for selection of beneficiaries. Preference shall be given for the poorest of the poor identified in the survey.

(e) In respect of beneficiaries under SERP/MEPMA the applicants shall be selected through the Village Organizations and the Slum Level and Town Level federation of self help groups.

(f) All the beneficiaries shall apply through the online beneficiary monitoring system to ensure transparency and accountability.

(g) The total coverage for beneficiaries for 2013-14 is appended to this order.”

The proceedings dated 23.11.2014 through which Committees are constituted refer to letter dated 05.10.2014 of the VC and MD, approved SC Action Plan for YSR Kadapa District, implementation guidelines, scheme wise guidelines etc. The proceedings dated 23.11.2014 are nothing but mere constitution of a Committee in terms of immediate references made therein as well as in accordance with the guidelines contained in G.O.Ms.No.101, Social Welfare (SCP.I) Department dated 31.12.2013. It is difficult to assume that the proceedings

dated 23.11.2014 are issued without proper Government orders. As asserted in the counter affidavit of respondent No.4, the Committees constituted have all the stake holders and the officials/representatives of Banks are majority participants. The M.P.D.O. is the Convener, Managers of all the Banks in the jurisdiction of Mandal, representatives of the Welfare Finance Corporation, representative of DRDA and President of Mandal Mahila Samakya. The duty assigned to the Scrutiny Committee is to examine the applications, prepare eligibility list and forward the list to the Bankers for detailed scrutiny. The final say in the matter is with the respective Banks implementing a particular scheme under SCAP. The procedure for availing financial assistance is made online and from the details furnished in the counter affidavit that as many as 1,68,090 applications are registered and 53,158 beneficiaries are targeted for selection under S.C. Action Plan 2014-15. The entitlement of subsidy is depending on acceptance of a particular application by the Bank to lend the financial assistance. In the other words, one who does not get financial assistance from a Bank does not get subsidy as well. The individual instances of denial or deprivation of any benefit cannot by any stretch of imagination, be construed as affecting the constitution of various Committees through proceedings dated 23.11.2014 or create any right in favour of petitioners for inclusion in the Committees. In the fact situation of this case, the Court is compelled to observe that the object of constitution of Scrutiny Committee can be discerned from the online application provided for availing loans and the number of applications received by the Bankers for financial assistance in implementation of SCAP. The inclusion of social workers/President Mahila Samkhya are to ensure proper and fair distribution of SCAP by identifying ineligible applications. The Committee scrutinizes the basic details and prepares the eligibility list in the process ensures prevention of misuse by a few persons in availing the benefits under SCAP. The challenge to inclusion of social workers/President Mahila Samkhya is laid as if the procedure is unauthorized and illegal. G.O.Ms.No.101 SW (SCPI) Department dated 31.12.2013 covers guidelines for implementation of self employment schemes and SCAP implementation is carried out by following same guidelines and such implementation ensures uniformity. The motives attributed for issuing G.O. dated 31.12.2013 are unsustainable. The very grounds on which the writ petition is filed are misconceived. The presence of more number of official members in the Committee shows that the social workers and President Mahila Samakya cannot be in any manner affecting the preparation of eligibility list of beneficiaries for consideration by the Banks. The petitioners though are representatives in local bodies do not have a right either to assail the constitution of Committees or pray for their inclusion in the Committees as members. The writ petition is misconceived and accordingly dismissed.

Consequently, miscellaneous petitions, if any pending, also stand disposed of.

DILIP B. BHOSALE, ACJ

S.V.BHATT, J

Date:15.06.2015
Stp/Kvni