

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

WVMP.No.3792 of 2013 in WP.No.30845 of 2012

and

WP.No.30845 of 2012

WVMP.No.3783 of 2013 in WP.No.30929 of 2012

and

WP.No.30929 of 2012

COMMON ORDER :

In these two Writ Petitions the same proceeding viz., Rc.No.1921/11/E1, dt.21.08.2011 (**for short, the ‘impugned order’**) of 1st respondent cancelling house-site pattas granted to petitioners is assailed.

2. It is not in dispute that petitioners in both these Writ Petitions were allotted certain plots as part of rehabilitation package for deprivation of their land for the purpose of Visakhapatnam Steel Plant in the year 2011 by the Special Grade Deputy Collector, Steel Plant (Land Acquisition), Visakhapatnam.

3. A complaint was received from one Sri Cheepurapalli Srinivasarao alleging illegal sanction of house-sites to ineligible persons, including petitioners.

4. Thereupon, the Additional Joint Collector, Visakhapatnam was appointed as an Enquiry Officer to conduct a discreet enquiry into the sanction of such pattas

amounting to sixty-eight in number [including the pattas granted to petitioners]. He submitted a report to 1st respondent. Thereafter, show-cause notices were issued to petitioners to show-cause as to why house-site pattas granted to them should not be cancelled on the ground that they obtained the house-site patta irregularly by misrepresentation of facts.

5. Explanations were filed by petitioners denying the allegation and claiming that house plots were allotted to petitioners under the Major Married Son Quota.

6. The 2nd respondent posted the matter to 21.07.2011. He then passed the impugned order stating as follows :

“... .. On the day of hearing 2nd allottees in R.R. Colonies appeared and submitted that the displaced persons fathers have already received R-Cards except 2 cases where they represented that they were not allotted any house sites to them, that they are major and married and accordingly they have been allotted the R-Cards.

In order to give an opportunity to the original allottees, notices were also issued to them to attend enquiry before the Appellate Authority i.e., Joint Collector & Special Officer, Steel Plant (LA), Visakhapatnam to offer depositions on illegal sanction of house sites to the ineligible persons in Steel Plant Rehabilitation Colony on 04.08.2012. On the day of hearing, some of the Original allottees have appeared before this authority and submitted original R-Cards. I have gone through the material placed before me by some of both Original Allottees and 2nd allottees and details evident the re-allotment has been made on the same plots which have

already been allotted to Original and in view of the said findings, being the Appellate Authority hereby order that all the 68 house site patta are re-allotment issued in Aganampudi and Vadlapudi RH Colony, which were granted irregularly/obtained by mis-representation owing fraud, are hereby CANCELLED in exercise of powers conferred under BSO 15 of 18. The details of cancelled House Site Pattas were appended herewith in Annexure.

The Tahsildar, Gajuwaka is directed to take necessary further action in the matter.”

7. A reading of the above order indicates that 2nd respondent had passed one single order in respect of 68 house-site patta holders cancelling their pattas. The said order does not refer to the reason why petitioners' house-site plots was sought to be cancelled. It does not consider petitioners' individual explanations to the show-cause notices issued to them, and it does not give any individual reason in respect of each of the 68 persons, including petitioners, for cancelling the house-site plots given to them earlier.

8. Heard the counsel for petitioner; the learned Government Pleader for Assignment for respondent nos.1 to 4; and Sri M. Karuna Sagar, counsel for 5th respondent in both the Writ Petitions.

9. The counsel for petitioner contended that without referring to the petitioners' explanations to the show-cause notices issued to them, and without disclosing to petitioners the material in the possession of 2nd

respondent against them, and without giving a specific reason as to why petitioners' house-site assignments or pattas were being cancelled, the 2nd respondent has passed the impugned order; and this is clearly in violation of principles of natural justice, and is unsustainable.

10. Although the learned Government Pleader for Land Acquisition sought to support the impugned order contending that there was a big fraud and 68 people were given house-site pattas in a period of two months by the then Special Grade Deputy Collector, Land Acquisition, he could not explain how a single order could be passed against 68 house-site patta holders without individually considering the grounds on which their house-site pattas were sought to be cancelled and the explanations individually given by them; and without furnishing the material in the possession of 2nd respondent to the petitioners as well as the other 66 persons (whose house-site allotments were cancelled under the impugned order).

11. It is unfortunate that such a casual approach is adopted by 2nd respondent in dealing with the serious issue of rehabilitation of displaced persons in gross violation of principles of natural justice. It was incumbent on the part of 2nd respondent to consider the individual explanations of petitioners to the show-cause notices issued to them, after furnishing the material available with

him to petitioners, and then pass a reasoned order individually dealing with the cases of each of the petitioners as well as the other 66 house-site patta holders.

12. Therefore, the impugned order cannot be sustained, and it is accordingly set aside. The Writ Petitions are allowed with costs of Rs.3,000/- to be paid by 1st respondent to each of the petitioners in these Writ Petitions. Consequently, WVMP.No.3792 of 2013 in WP.No.30845 of 2012 and WVMP.No.3782 of 2013 in WP.No.30929 of 2012 are dismissed.

13. However, this will not preclude the respondents from initiating a fresh proceeding for cancellation of the house-site pattas granted to petitioners subject to respondents complying with the principles of natural justice.

14. The 5th respondent in both the Writ Petitions will also be heard by 2nd respondent in case the 2nd respondent proposes to conduct a fresh enquiry into the issue of cancellation of house-site pattas granted to petitioners and others.

15. As a sequel, miscellaneous petitions pending if any in these Writ Petitions, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 22-06-2016

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