THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

Writ Petition No.26642 of 2007

ORDER:

This writ petition under Article 226 of the Constitution of India is filed seeking the following relief/s:-

> **"For the reasons stated in the accompanying affidavit, it is hereby prayed that this Hon'ble Court may be pleased to issue an appropriate writ or order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in not making allotment of land to an extent of 200 sq. yds of house site in favour of the members of the petitioner's Association on par with 134 ex-employees of erstwhile Azam Jahi Mills who were allotted house sites of 200 sq. yds under G.O.Ms.No.463, Municipal Administration and Urban Development (H2) Department, dt.27.06.2007 as illegal, arbitrary and consequently direct the respondents to allot house sites to an extent of 200 sq. yds to each member of the petitioner association and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case."**
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> (Reproduced verbatim)

2. I have heard the submissions of *Sri Prabhakar Chikkudu*, the learned counsel for the writ petitioner; *Sri P.Kamalakar,* the learned counsel appearing for the 1st respondent-National Textile Corporation Limited (NTCL) and the 4th respondent; the learned Government Pleader for Municipal Administration and Urban Development, appearing for the 2nd respondent-State of Telangana; *Sri M.Ajay Kumar*, the learned Standing Counsel appearing for the 3rd respondent-The Kakatiya Urban Development Authority, Warangal ('KUDA'). I have perused the material record.

3. The case of the writ petitioner, in brief, is as follows:

The petitioner is an association of retired workers of the 4th respondent-Azam Jahi Mills, Lakshmipura, Warangal District ('the mill', for brevity). All the members of the petitioner association worked in the mill for more than 20 years. The mill was closed due to mismanagement in the year 2002. About 442 employees worked in the mill for more than 20 years. During the period of service, the said employees were allotted employees' quarters constructed and owned by the mill. The members of the petitioner association and other employees of the mill had voluntarily retired pursuant to a modified voluntary scheme of 2002. A large number of employees voluntarily retired on one day i.e., 31.08.2002 under the modified voluntarily retirement scheme. The members of the petitioner association were asked, vide notice dated 17.07.1986, to vacate the quarters, which are in the respective occupations of the respective members/employees. In the said notice, it is stated that the quarters in which the members of the petitioner-association are staying were in dilapidated condition and became unfit for human habitation. The members of the petitioner association were forcefully evicted from the quarters though some of the quarters are fit for occupation and habitation. Thereafter, the management of the mill demolished all the quarters. However, some of the employees, who are about (134) in number, continued to stay in their respective quarters despite service of the said notice dated 17.07.1986 asking them to vacate the quarters in their respective occupations. The 1st respondent-NTCL sold away the machinery and infrastructure of the mill and allotted the land of an extent of Ac.202.00 guntas to the State of Telangana and KUDA for development. A portion of the land was sold to Housing Board and KUDA and also other institutions. Yet, an extent of Ac.11.00 guntas is still available. KUDA had submitted proposals to the State to allot house sites of 200 square yards each to the said 134 ex-employees of the mill, who had continued to stay in their respective quarters despite service of the notice dated 17.07.1986 demanding them to vacate the quarters. The Government had approved the said proposal and issued G.O.Ms.no.463, Municipal Administration and Urban Development (H2) Department dated 27.06.2007 and had accordingly, permitted the KUDA to allot 200 square yards of developed plot each free of cost to each one of the (134) ex-employees of the 4th respondent-mill. A number of representations, including a representation dated 05.09.2007, were submitted by the petitioner-association to the respondents 1 to 3 requesting to allot 200 square yards of land each for use as house site to the members of the petitioner association on par with the former (134) employees of the mill in whose favour such extents of sites were allotted. However, the respondents did not consider the said representations of the petitioner association though the case of the members of the petitioner association stands on the same footing as that of the (134) ex-employees who were conferred with the benefit of allotment of house sites individually, vide the aforementioned Government Order. While so, the 1st respondent issued proceedings dated 22.09.2007 expressing inability for allotment of house sites in favour of the petitioner association on the ground that the land was sold by the management of the mill and eventually, the 3rd respondent had purchased the land. It appears that the KUDA proposed for allotment of house sites to those of the retired employees, who had continued to stay in the quarters despite closure of the mill and who had also retired under the voluntary retirement scheme modified way back in the year 2002. There is no rationale behind the rejection of the request for allotment of house sites to the members of the petitioner association though the members of the petitioner association are on par and are also similarly placed as those (134) employees in whose favour house sites were allotted. The scheme of retirement is common. Therefore, differential treatment meted out to the members of the petitioner association by the respondents by denying allotment of house sites in favour of the members of the petitioner association is illegal and violative of Article 14 of the Constitution of India. All the members of the petitioner association are poor persons and do not own houses of their own. They were made to retire voluntarily by the erstwhile management of the mill. Out of Ac.202.00 guntas of land, there is lot of land available for allotment of the house sites of an extent of 200 square yards each to the members of the petitioner association. Since the respondents are taking steps to alienate the land to third parties for market value and as the rejection of the request of the members of the petitioner association is illegal and arbitrary and violative of the provisions of the Constitution of India, the present writ petition is filed requesting the Court to grant appropriate reliefs.

4. The defence of the respondents 1 and 4 in the counter affidavit filed by the Technical Assistant and officer–in-charge of the mill, in brief, is as follows:

The Government of India had nationalized (109) ailing textile mills in the country as per the provisions of Sick Textile Undertaking (Nationalization)

Act, 1974. The 1st respondent-NTCL is wholly owned by the Government of India. It has been entrusted with the responsibility of managing all these textile mills. Subsequently, 9 subsidiary companies were formed during 1974 and 1975 and the Units were handed over to the respective subsidiaries. Over 16 mills located in different parts of Andhra Pradesh, Karnataka, Kerala and Maharashtra were brought under the fold of NTC (APKK&M). The working of NTC (APKK&M) was unsatisfactory since early 1980s and it resulted in heavy losses and there was deterioration of financial position of the 4th respondent mill. Therefore, it came under the provisions of Section 15(1) of Sick Industrial Companies (Special Provisions) Act, 1985 and was declared as a Sick Industrial Company on 12.01.1993. The mill suffered heavy business losses and that resulted in closure of the mill with effect from 30.10.2002 with the approval received from the Ministry of Labour, Government of India, vide letter dated F.No.L-4204/31/2002-IR (Misc), dated 11.09.2002. The NTC, New Delhi has directed the mill to formulate Voluntary Retirement Scheme (VRS) to the employees of the mill. Based on the VRS, the Central Government had released funds for payment of VRS benefits to the employees. The first phase of VRS was implemented in 1992 and the modified VRS was implemented in 2002. Out of the total strength of 463 workers, 451 employees had opted for VRS and the remaining employees were transferred to other mills of the 1st respondent. The President of the petitioner association had filed an application before the District Legal Services Authority with four others for the relief which is now prayed for in the writ petition; and hence, the present writ petition is not maintainable. The material allegations in the writ petition are false. It is incorrect to state that the workers were forcibly evicted from their respective quarters. The quarters were in dilapidated condition and therefore, the workers staying in quarters were asked by the mill to vacate the same is true. It is also true that some of the workers continued to stay in the quarters despite service of notice on them for vacating the quarters. The mill had sold Ac.65.65 guntas of land to A.P Housing Board in public auction and also Ac.117.20 guntas to KUDA on 01.03.2007. It is true that NTC disposed of the machinery and infrastructure of the mill and sold the land as aforesaid. The averment that the land in an extent of Ac.11.00 guntas is still available is not correct. The entire land was sold to A.P Housing Board and KUDA. At present, the mill is not in possession of any land. Even otherwise, there is no obligation on the part of the 1st respondent to allot house sites to the members of the petitioner association under the modified VRS. The members of the petitioner association had retired long time back. Their accounts were settled and no relationship of employer and employee exists after such settlement. Since the property was sold to the Government, the consideration of the request of the petitioner association does not arise. The respondents 1 and 4 are not lawful owners of the land in question and there is no obligation on their part to consider the representation. Employees working in the mill were allotted quarters is correct. There is no provision in the modified VRS that workers should be allotted house sites.

5. The averments in the counter affidavit of the 3rd respondent to the extent relevant, in brief, are as follows:

The President of the petitioner association in his personal capacity along with four others had filed a court case before the District Legal Services Authority, Warangal and it is posted to 03.03.2008 for hearing. Hence, the writ petition is not maintainable. The members of the petitioner association had voluntarily retired from the services of the mill under modified VRS 2002. Their accounts were settled by the NTC long time back. Hence, the request for allotment of house sites to the members of the petitioner association on par with (134) other employees does not arise for consideration. In fact, the 3rd respondent KUDA had taken over possession of (134) quarters covered in an area of Ac.117.00 guntas of land. The allotment of plots to the (134) workers, who were staying in the quarters, was considered as a measure of rehabilitation and welfare by the Government as well as KUDA. There is no illegality or irregularity in the matter. KUDA had submitted proposals to the Government for allotment of plots to (134) workers only, as they were still continuing to stay in the quarters at the time of taking over physical possession of the land by KUDA from NTC. The Government had issued orders for allotment of plots to those (134) employees who were by then staying in the quarters. This respondent cannot allot plots to the members of the petitioner association as per the Government Orders referred to in the writ petition. This respondent received representation dated 15.09.2007. However, it is not considered as the case of the members of the petitioner association does not stand on the same footing as that of the (134) former employees, who had continued to stay in the existing quarters, and as the allotment of sites was made to them as per the Government orders. The members of the petitioner association who had voluntarily retired under a modified voluntary scheme had vacated the quarters and had left the place already. At the time of taking over possession by the KUDA, (134) ex-workers only were staying in the quarters. The proposal for allotment of house plots of 200 square yards each was agreed upon by the respondents 2 and 3. Such similar benefit cannot be extended to the retired employees other than those (134) ex-workers as per the principle of the decision taken in this regard by this respondent and the Government. This respondent has purchased the land from the NTC and had specifically agreed for allotment of house sites to those ex-employees only who were still staying in the quarters by that time. This respondent and the Government did not agree for allotment of sites to the members of the petitioner association. This respondent had taken up sites and services scheme and had incurred a lot of expenditure on infrastructure facilities like provision of roads, water supply, drainage, electricity, parks development etcetera and disposing the plots in public open auction. In view of the financial position of the third respondent, it is not possible to allot plots to any other retired employees, under any circumstances. The members of the petitioner association vacated the quarters long time back and are residing elsewhere and they were not staying in the mill quarters at the time of the proposal of the scheme for purchase of land by this respondent from the 1st respondent and therefore, the members of the petitioner association are not eligible for allotment of any house sites on par with the other (134) workers. The project was taken up on "as is where is" and "as is what is" basis. The members of the petitioner association have no right to demand plots and this respondent has no liability to allot plots to the members of the petitioner association as per the project deal. The members of the petitioner association cannot re-enter the picture and seek allotment of house sites. As per the Government Order, the Project has to be finalized to raise funds for City infrastructure development and therefore, this respondent was obliged to raise funds through the sale proceeds by selling plots. Even if any of the land is available, it is for the development of KUDA and city and not reserved for allotment to the petitioners on free of cost on par with (134) members. There is no scope for sparing the land of this respondent to the members of the petitioner association. Hence, the writ petition may be dismissed.

6. On behalf of the 2nd respondent, the then Additional Director, Municipal Administration & Urban Development Department, Telangana Secretariat, Hyderabad, had filed a counter affidavit *inter alia* stating as follows: "The workers of the mill received relieving order dated 31.08.2002 and retired from NTC service and their accounts were settled as early as on 06.09.2002. The 3rd respondent-KUDA had taken over possession of (134) existing quarters covered in an area of Ac.117.00 of land. Hence, allotment of plots was considered for 134 workers only who were staying in the quarters as a rehabilitation and welfare measure by the Government as well as by KUDA. There is no illegality or irregularity in that regard. The Government cannot allot plots to the members of the petitioner association as per the Government order. KUDA has purchased land from the 1st respondent. At that time it was specifically agreed by KUDA and Government to allot house sites only to those who are still staying in the quarters. There was no agreement for allotment of sites to the members of the petitioner association. Keeping in view the financial position of KUDA, it is not possible to allot house sites to the members of the petitioner association. KUDA is an autonomous body working under the control of the Government and it is not a welfare organization to extend the benefits as it likes to all the employees of NTC. It has got its own assets and liabilities and has its own priorities in developmental aspects. There is no differential treatment. The claim on the ground that the members of the petitioner association are poor is of no concern to this respondent. The members of the petitioner association having lost their rights cannot again come into picture under the present project. There is no land available with this respondent for the purpose of allotment to the members of the petitioner association.

7. In reply to the counter affidavit filed on behalf of the respondents 1 and 4, the writ petitioners had filed a reply affidavit *inter alia* stating as follows: "The respondents 1 and 4 owned land of an extent of Ac.215.00 and that out of it, an extent of Ac.201.02 guntas was sold to various respondents and that even as on today, the respondents 1 and 4 are having an extent of Ac.10.24 guntas in Sy. nos. 62, 63, 65, 66, 67 and 76 at Lakshmipuram village of Warangal and in Sy. nos.368, 370 and 377 situated at Kila Warangal village. In support of the said facts, certificates have been filed by the writ petitioner association. The petitioner association is not concerned in regard to whether or not any land is available with the respondents 1 and 4 as the respondents 1 and 4 had agreed to allot house plots to all the retired employees under the modified VRS scheme, but had allotted house plots only to (134) members, vide G.O.Ms.no.463, dated 27.06.2007 contrary to the provisions of Article 14 of the Constitution of India. The respondents 1 and 4 having land in their possession acted arbitrarily and illegally and had not allotted house plots to the (332) retired employees of the mill." Be it noted that along with the reply affidavit, the list of such employees and the copies of pahanies of Lakshmipuram village and Kila Warangal are filed. A rejoinder is also filed by the writ petitioners reiterating the contents in the writ petition and asserting that the allotment of house plots only to (134) workers by giving differential treatment to the members of the petitioner association is illegal and arbitrary."

8. From the pleadings and the averments, the following facts emerge: "After the 4th respondent-mill became sick on account of deterioration of its financial position, eventually, the mill was closed with effect from 30.10.2002 with the approval dated 11.09.2002 received from the Ministry of Labour, Government of India dated 11.09.2002. As directed by the NTC, New Delhi, the mill had formulated a scheme viz., VRS to the employees of the mill. The Central Government had released funds for payment of VRS benefits to the employees of the mill. In the first phase, VRS was implemented in the year 1992. The modified VRS was implemented in the year 2002. As per the submissions of the mill, out of total 463 workers, 451 workers had opted for VRS and the remaining workers were transferred to the other mills of the 1st respondent. The members of the petitioner association retired under the modified VRS that was implemented in the year 2002. They were duly served with notice dated 17.07.1986 to vacate the quarters in their respective occupations as the quarters in their occupations have become dilapidated and unfit for human habitation. The members of the petitioner association have vacated the quarters. The VRS scheme was implemented and the accounts of the employees, who had retired under the voluntary scheme, were settled. So far as the employees who had voluntarily retired under the modified VRS, 2002, the accounts were settled on 06.09.2002 by serving relieving orders on 31.08.2002. However, (134) workers, who had retired under the same scheme did not vacate the quarters in their respective occupations inspite of service of similar notices upon them. The 4th respondent had sold 65.65 acres to A.P Housing Board in public auction and Ac.117.20 guntas to KUDA-3rd respondent on 01.03.2007. In fact, KUDA, as per the averments in the counter affidavit of its Vice Chairman, had taken over possession of (134) existing quarters covered in an area of Ac.117.00 guntas of land. However, according to its submissions, (134) ex-workers had not vacated the quarters in their occupations at the time of the taking over physical possession of the land by the KUDA from the 1st respondent-NTC. Hence, KUDA had proposed for allotment of plots to the said (134) workers, who were staying in the quarters as a measure of rehabilitation and welfare by the Government. The said proposal was accepted. Accepting the proposal, G.O.Ms.No.463, Municipal Administration and Urban Development (H2) Department, dated 27.06.2007 was issued permitting the KUDA to allot 200 square yards of developed plot each free of cost to each one of the (134) ex-employees of the 4th respondent-mill, who were at the relevant time staying in the 134 quarters. However, the members of the petitioner association who had received notices to vacate the quarters and who had vacated the quarters were not extended the same benefit as they were not in possession of their respective quarters of the mill at the time of taking over physical possession of the land by the KUDA from the NTC, though they are otherwise placed on par with the said (134) employees who were allotted house sites as per the Government orders. Hence, the writ petition is filed by the said members of the petitioner association, who are not allotted house sites on par with the above said (134) ex-employees, complaining differential treatment and violation of Article 14 of the Constitution of India and for a direction to the respondents to allot similar extents of sites to all the eligible (332) members of the petitioner association.

9. The case of the 1st respondent-NTC and the 4th respondent mill is that since part of the land in an extent of Ac.65.65 guntas was sold to A.P. Housing Board in public auction and Ac.117.20 guntas was sold to KUDA on 01.03.2007, the mill is not in possession of any land and there is no obligation on the part of the NTC to allot house plots to the members of the petitioner association under the modified VRS. It is pertinent to note that in the counter affidavit filed on behalf of the respondents 1 and 4 by the Technical Assistant and Officer in charge of the mill, it is not stated as to what is the total extent of land held by the mill. The counter affidavit is conveniently kept silent on that vital aspect. Be that as it may. In the pleadings of the writ petition, it is stated that the total extent of land owned and held by the mill is Ac.202.00 guntas. In the reply affidavit of the writ petitioner, it is specifically stated that the respondents 1 and 4 are having land of an extent of Ac.215.00 guntas and that out of it, an extent of Ac.202.10 guntas was sold to various respondents and that even as on the date of filing of the reply affidavit on 11.12.2015, the respondents 1 and 4 are having land of an extent of Ac.10.24 guntas in Sy. nos.62, 63, 65, 66, 67 and 76 at Lakshmipuram village of Warangal and in Sy. nos.368, 370 and 377 situated at Kila Warangal village and that the total land still held by the respondents 1 and 4 is Ac.14.88 guntas. Admittedly, 200 square yards of plot each was allotted to (134) ex-workers who had continued to stay in the quarters despite service of notice calling upon them to vacate the quarters in their respective occupations. Since they had continued in the quarters inspite of demand in the notice asking them to vacate, they were conferred the benefit of allotment of house plots. Whereas, the members of the petitioner association, being law abiding citizens had vacated the quarters pursuant to a notice calling upon them to vacate the quarters. Hence, the benefit was not conferred on the eligible members of writ petitioner association merely on the ground that they were not staying in the quarters at the time of taking over physical possession of the land by KUDA from NTC though they are otherwise on par with the said (134) workers on whom the benefit of allotment of house plots of (200) square yards each was conferred pursuant to the Government orders. The petitioner association had filed along with the counter affidavit, copies of pahani patrikas of Lakshmipuram village right from the year 1954-55 up to 2014-2015 and also pahani patrika of Kila Warangal from the year 1959 onwards up to 2014-2015. The petitioner association had also produced a letter dated 03.06.2015 addressed by the Village Revenue Officer of Lakshmipuram village to the Tahasildar, Warangal. A perusal of the said letter shows that the said officer had made verification in regard to physical possession of the land situated in Sy.Nos.62,63,65,67,76 of Lakshmipuram village of Warangal and also the lands in Sy. Nos.368, 370 and 377 of Kila Warangal village and that according to the report of the Mandal Surveyor, the land of an extent of Ac.5.00 guntas situated at Laxmipuram village and the land to an extent of Ac.5.24 guntas situated at Khila Warangal village in the above said survey numbers i.e., total extent of Ac.10.24 guntas is vacant and is not in possession of anybody and is neither occupied nor grabbed.

10. Thus, there is sufficient evidence brought on record to show that about Ac.10.20 guntas of land is still available. In the well-considered view of this Court, when a benefit is conferred on (134) ex-employees who are on par with the eligible members of the petitioner association, denying a similar benefit to the members of the petitioner association, though they are on par with the said (134) ex-employees, who are allotted house plots, would amount to differential treatment or treating them differently merely on the ground that the members of the petitioner association being law abiding citizens vacated the quarters on receiving notices to vacate the quarters. The respondents 1 and 2 had sold large junks of lands, i.e., Ac.64.00 guntas in public auction to Housing Board and Ac.111.70 guntas to KUDA. In the counter affidavit filed on behalf of KUDA also, it is stated that even if any of the land is available, it is for the development of KUDA and city and it is not reserved for allotment to petitioners on free of cost on par with (134) members; and as such, there is no scope or intention of sparing any land of the KUDA to the members of the petitioner association. Having regard to the facts and considering the plight of the members of the petitioner association, this Court is satisfied that non-allotment of housing plots to the eligible members of the petitioner association on par with (134) ex-employees who are similarly placed as those of the members of the petitioner-association amounts to differential treatment and violation of Article 14 of the Constitution of India. The respondents could not show any valid reasons for extending differential treatment to the eligible members of the writ petitioner association and for declining the relief to them as prayed for in this writ petition. Hence, this Court finds that sufficient case is made out for granting the relief as prayed for in the writ petition.

11. In the result, the Writ Petition is allowed directing the respondents to allot house sites of (200) square yards each to all the eligible (332) members of the petitioner association as they are on par with the (134) ex-employees of the mill, who were already allotted house sites of an extent of (200) square yards each, as per G.O.Ms.No.463, Municipal Administration & Urban Development (H2) Department, dated 26.07.2007.

There shall be no order as to costs.

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

M. SEETHARAMA MURTI, J

18th March 2016

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