

THE HON' BLE SRI JUSTICE M. GANGA RAO

WRIT PETITION No.15954 of 2007

ORDER:

The petitioner-T.T.D. Board of trustees recognised 300 Forest Casual Mazdoors Society filed this writ petition to issue a Writ of Mandamus declaring the action of the respondents in not implementing the Resolution No.453 dated 24.10.2005 passed by the T.T.D. Board and allotting the works on nomination basis to the petitioner Society as illegal, arbitrary and unconstitutional and consequently direct the respondents to allot works to the petitioner Society on nomination basis as per the said Resolution.

2. The case of petitioner is that in the year 1988 respondent No.1 had engaged about 400 persons for working in forests belonging to respondent No.1 and they are designated as Forest Mazdoors and they were directly working under the Forest Range Officers of the T.T.D. Initially they were paid wages of Rs.420/- per month and the wages were revised from time-to-time as prescribed by the Government. As the said 400 persons were working since 1988, the T.T.D. service organisation has requested respondent No.1 to absorb them into T.T.D. service. The same was considered by the then Specified Authority and it had resolved to forward the request of the Contract Labour Unions to the Government through its Resolution No.426 dated 30.11.1995 and 01.12.1995. Further, this Court, in W.P.No.5155

of 1997, also directed the Government to consider the recommendation made by the Specified Authority within a period of three months. In view of the same, respondent No.1 has requested the Government to consider the demands of the Forest Contract Labour Unions and issue necessary orders to absorb the said Forest Mazdoors, who had put in five years of service in the T.T.D. forest under Petty Contract System. However, the Government had rejected the proposal of respondent No.1 in G.O.Rt.No.1346 dated 13.08.1997 on the ground that there is no direct relationship of master and servant between the said labourers and the T.T.D. as they were engaged by the Contractor. Even after the said G.O. the said persons worked for some time and ultimately their services were dispensed with. Thereafter, on the representation of the petitioner and other Unions, the T.T.D. Board passed Resolution No.453 dated 24.10.2005, which reads as under:

“Presently working contractors may be persuaded to employ them. Alternatively, they can form into a Co.op. Society and the Society may be given works on priority on nomination basis in such a way that the Forest Mazdoors should be engaged with work immediately.”

Thereafter, the petitioner Society was registered on 30.11.2005 under the Societies Registration Act bearing registration No.410 of 2005 and notified the said fact to the respondents and requested them to allot the works on nomination basis as per the said Resolution as their survival is at stake. Thereafter, on

17.12.2005 respondent No.2 issued a notice in Roc.No.TO/ 324/ CF/ 2005 calling upon the petitioner Society to get the Society registered and also asked it to submit an application expressing its willingness to execute the works and also asked the petitioner Society to register with the Forest Wing, T.T.D. for carrying works in the T.T.D. Forest Wing. Thereafter, several negotiations had taken place with respondent No.2 for taking up the work on nomination basis. Respondent No.1 had not allotted any work to the petitioner Society. It is further stated that respondent No.3 issued a short tender notice in Roc.No.ADV/ TO/ CF/ 2007 dated 13.04.2007 inviting sealed tenders in respect of all the works in the T.T.D. Forest Department. Pursuant to the said tender notice, the petitioner Society met the respondents and appraised them of the resolution passed by the T.T.D. on 24.10.2005, under which the members of the Society are entitled to be given works on nomination basis. Respondents 2 and 3 informed the petitioner Society that the Society will not be given any works as they have already issued a tender and gave work orders to the successful contractors till 31.03.2008. The respondents are under the legal obligation to implement the resolution passed by the T.T.D. Board dated 24.10.2005. It is further stated that the T.T.D. had transferred all the gardens situated both at Tirupathi and Tirumala Hills from the T.T.D. Garden Department to the T.T.D. Forest Department for their daily maintenance. Respondents 2

and 3 require lot of man power for the maintenance of the gardens.

3. Respondent No.1 filed counter affidavit stating that the Specified Authority has passed Resolution No.426 dated 30.11.1995/ 01.12.1995 forwarding the request of the petitioner Society to the Government and the same was communicated to the Government to consider the recommendations of the T.T.D. Specified Authority. The Government in its G.O.No.1346, Revenue (Endowments-III) Department dated 13.08.1997 has informed that the Government has examined the proposal of the Executive Officer, T.T.D., Tirupati keeping in view the Resolution of the T.T.D. Specified Authority and also orders of this Court in W.P.No.5155 of 1997. It is observed that 285 persons were appointed by the Petty Contractors and not by the Tirumala Tirupati Devasthanams. There is no direct relationship with the said labourers by the T.T.D. as the Petty Contractors, who were the mediators in between the T.T.D. and the labourers, makes payment to the labourers working in the T.T.D. Forest Wing. The T.T.D. Board passed Resolution No.453 dated 24.10.2005 asking the petitioner to form into a Cooperative Society. Accordingly, the Executive Officer, T.T.D., Tirupati issued a notice dated 17.12.2005, along with the list of works to be taken on nomination basis, and the same was served on the Society requesting them to get registered in the T.T.D. Forest

Wing as per the Rules. Another notice was served on the petitioner Society on 24.01.2006 requesting them to appear before the Negotiation Committee along with the proposals on 30.01.2006. The petitioner Society attended before the Negotiation Committee and expressed that they were prepared to take up works only on daily wage basis and not on contract system. On 21.06.2006, another notice was served on the Society to attend the negotiation meeting and furnish preparedness for taking of works along with requisite Earnest Money Deposit for each work mentioned in the list. The Society had attended before the Negotiation Committee and submitted its willingness on nomination basis without paying Earnest Money Deposit, which is contrary to Rules. The T.T.D. authorities decided to entrust certain percentage of works upto Rs.2.00 lakhs to the members of the Society on nomination basis, but they did not come forward to take up the works as per the Rules. While the matter stood thus, another Society called Sri Venkata Padmavathi Welfare Society submitted an application requesting to entrust works on nomination basis. Further, Sri J.Bhaskar Reddy in his representation dated 21.06.2006 stated that they are 285 Petty Contract Labourers, who have not formed into any Society, requested for regularisation of services. The Government of Andhra Pradesh in Memo No.20403/ Endt-III/ A2/ 2004-B dated 20.06.2006 has informed the Executive Officer, T.T.D., Tirupati that Sri J.Bhaskar Reddy, T.T.D. Forest

Casual Mazdoor has submitted a representation alleging that bogus names are included other than these 285 labourers identified by T.T.D. The Chief Vigilance and Security Officer, T.T.D, Tirupati has submitted the Enquiry Report in his letter in Roc.No.S2/ 015089/ CV&SO/ TTD/ TPT/ 06 dated 20.06.2007, the Enquiry Report is self explanatory. On enquiry, it is revealed that no Society/ Union/ Federation was having all 285 members recognized in the T.T.D. Forest Department list as their members and the said 285 members were scattered. Some of them were interested in regularising their services instead of doing works on nomination basis and hence, they refused to attend the enquiry. The Chief Vigilance & Security Officer, T.T.D, Tirupati has informed that the enquiry was not taken up on the representation of Sri J.Bhaskar Reddy, since they are not interested to form into Society, which is against to the T.T.D. Board resolution. It is revealed that only 66 members were identified in both the societies i.e., 12 members in Board of Trustees recognized 300 Forest Casual Mazdoors society, Tirupati/ Tirumala and 54 members in Sri Venkata Padmavathi Welfare Society, Tirupati. It is further stated that a tender notice was issued on 13.04.2007 for taking up the maintenance works of gardens, drivers, Plantations etc. If the petitioner Society would have participated in the tenders as per norms, instead of participating they keep on representing the authorities to allot works on nomination basis. The request of petitioner

Society was not considered to allot works on nomination basis as they have not participated in tender process.

4. In the aforesaid circumstances, the respondents had not in a position to implement the T.T.D. Board Resolution No.453 dated 24.10.2005. It is further stated that with regard to the payment of wages, the members of the petitioner Society is no way concerned with T.T.D, as there is no master and servant relationship between T.T.D. and the members of the petitioner Society and finally prayed the Court to dismiss the Writ Petition.

5. Heard the learned counsel for petitioner, and Sri Pale Nageswara Rao, learned Standing Counsel for the T.T.D.

6. In the facts and circumstances of the case, this Court, under Article 226 of the Constitution of India, is not inclined to issue any Writ for enforcement of the Resolution No.453 dated 24.10.2005 passed by the T.T.D. Board in view of the disputed questions of facts and law.

Accordingly, this Writ Petition is dismissed giving liberty to the petitioner's Society to work out its remedies as per law. No order as to costs. Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

M.GANGA RAO, J

19.02.2018
MVA