

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

Writ Petition No.20134 of 2008

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ORDER:

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This writ petition is filed seeking the following relief/s:

“For the reasons stated in the affidavit accompanying affidavit filed herein, the petitioner prays that this Hon’ble court may be pleased to issue an appropriate Writ, Order, or Direction under Article 226 of the Constitution of India, particularly one in the nature of Writ of Mandamus, declaring the action of the third respondent in not taking steps on the letter dt.30-1-2008 by the second respondent for conducting Socio Economic Survey and issuing of the IRIS Cards of the (300) Members of the Petitioner Society as unjust and illegal and direct the respondents herein to take immediate steps for conducting Socio Economic Survey and issue of IRIS Cards to the 300 Members of the petitioner society after calling for the records and to pass such other orders that this Honourable Court may deem just to pass.”

(Reproduced verbatim)

2. I have heard the submissions of the learned counsel for the writ petitioner-society, the learned Government Pleader for Revenue (Telangana) appearing for the 1st respondent, the learned Standing Counsel for the 2nd respondent-Housing Corporation and the learned Standing Counsel for the 3rd respondent-Greater Hyderabad Municipal Corporation (GHMC). I have perused the material record.

3. The case of the writ petitioner-society, as stated in the affidavit filed in support of the writ petition, in brief, is this:

The petitioner is a registered society. The members of the petitioner-society are all women who make a living on daily-wage. There are 4022 members in the petitioner society and most of the members of the petitioner-society belong to scheduled caste, scheduled Tribe and Backward Class communities and also economically weaker sections. They do not have their own houses. They all made a representation to the 4th respondent-District

Collector, Ranga Reddy District requesting to construct houses under welfare schemes for the members of the petitioner-society. A representation was also submitted on 28.01.2008 at Praja Darbar to the 4th respondent requesting to conduct a socio economic survey in respect of (300) members of the society mentioned in the annexure and sanction the houses as per the eligibility under the JNNURM Programme. Having assured that he would do the needful, the 4th respondent had forwarded the representation to the 2nd respondent for taking steps in the matter. The 2nd respondent, while enclosing to his letter dated 30.01.2008 addressed to the 3rd respondent, a copy of the representation of the members of the petitioner-society as well as the list of beneficiaries annexed thereto, had requested to conduct socio-economic survey for sanction of houses under the JNNURM Programme. In urban areas, the Government is constructing group housing units in ground plus three (G+3) pattern with an approximate carpet area of about 300 square feet on lands that are being transferred on zero cost for the benefit of the beneficiaries. For allotment of the houses under such housing schemes, the eligible persons are to be selected by the 4th respondent basing on the socio-economic survey. The 3rd respondent had not conducted any such survey in case of the petitioner-society. The socio-economic survey has to be conducted insofar as the eligible members of the petitioner-society are concerned, as per the Government Order in G.O.Ms.no.3, dated 12.01.2005, which states the details thereof. However, the 3rd respondent has not taken any steps so far, on the letter dated 30.01.2008 addressed by the 2nd respondent. Having waited for a communication from the 3rd respondent in that regard and having found that no such socio-economic survey is being conducted to ascertain the eligibility of the beneficiaries for sanction of the house sites and that IRIS cards are not being issued, the petitioner-society is constrained to file the instant writ petition.

4. The 2nd respondent had filed a counter affidavit stating as follows:

A representation along with the list of (300) beneficiaries was received from the petitioner-society requesting for sanction of houses. The District

Collector, Ranga Reddy District during the Praja Darbar held on 28.01.2008 had instructed to refer the list of beneficiaries to the Deputy Commissioner, GHMC, L.B.Nagar zone for verification in regard to eligibility. As per the instructions of the District Collector, the list of the beneficiaries was sent to the Commissioner, GHMC along with the office letter dated 30.01.2008 with a request to arrange to conduct socio-economic survey and sanction house sites under the JNNURM Programme, in case the members of the petitioner-society are found eligible as per the Rules in force. Under G.O.Ms.no.141, dated 25.07.2007, the Government have issued certain instructions and directed that the Commissioners of the Greater Hyderabad, Vijayawada and Visakhapatnam Municipal Corporations would be responsible for the constructions along with infrastructure facilities of JNNURM Programme in their respective Municipal areas instead of the District Collectors and Executive Directors of A.P. State Housing Corporation Limited (APSHCL), Ranga Reddy, Medak, Hyderabad, Visakhapatnam and Krishna Districts. The Government have directed the District Collectors and Executive Directors of APSHCL of the above Districts to hand over immediately the Housing projects, which are sanctioned and also those, which are currently under execution along with all records to the respective Municipal Commissioners. As per the Government Orders, the Managing Director, APSHCL, Hyderabad, the District Manager, APSHCL, Ranga Reddy District have handed over all the housing schemes in progress, i.e., UPH, VAMBAY and JNNURM along with accounts to the GHMC, Hyderabad. At present, the District Manager (Housing), APSHCL, Ranga Reddy District has not taken over the housing schemes in the GHMC area covering Hyderabad and Ranga Reddy Districts. The GHMC is constructing the houses to the weaker section people under various housing schemes. The list of beneficiaries received from the petitioner-society was sent to the Commissioner, GHMC along with the letter dated 30.01.2008 with a request to arrange for conducting Socio-economic survey for the purpose of sanction of houses under the JNNURM Programme to the eligible beneficiaries as per the Rules.

5. In the counter affidavit filed by the Deputy Commissioner, GHMC on

behalf of the 3rd respondent, it is *inter alia* stated as follows:

There is no housing scheme under JNNURM in her circle. Though the Manager (Housing) scheme had sent a letter, the office of the GHMC does not have the facility, infrastructure and staff to conduct verification of the beneficiaries. No individual had approached her office with identity details like ID card, address proof, Aadhar Card or ration card for the purpose of verification. The office of the Deputy Commissioner, GHMC does not have any machinery to send its staff to individual respective addresses of the proposed beneficiaries for verification as directed by the office of the 2nd respondent. The 2nd respondent cannot pass directive orders to conduct survey. He has no authority to direct this office to conduct verification of eligibility of persons as shown in the list. The list does not contain proper addresses and the persons therein will not come under the jurisdiction of the organization of the Deputy Commissioner, GHMC. The society cannot approach this Court by way of a writ petition on behalf of the individuals. If the individual members are having eligibility, they can directly approach the 2nd respondent with their documents and they need not approach the Municipality. There is no programme under the scheme of JNNURM at present.

6. The learned counsel for the parties had made submissions in line with the pleadings, which are extracted supra.

6.1 The learned counsel for the writ petitioner-society had fairly conceded that at present, there are no housing schemes in progress as per the submission of the official respondents and that therefore, a direction may be given to the respondents to conduct socio-economic survey for identification of the beneficiaries amongst the members of the petitioner-society for allotment of houses in the housing scheme that may be undertaken in future; and, that if such a direction is given, the grievance of the members of the petitioner-society would be redressed and that such a course would also sub-serves the ends of justice. The case of the 2nd respondent is that as per the

instructions of the District Collector, a letter was addressed to the 3rd respondent for conducting socio-economic survey in regard to (300) beneficiaries in the list of the writ petitioner-society annexed to their representation and that as per the Government orders and directions, the Commissioners of the Greater Hyderabad, Vijayawada and Visakhapatnam Municipal Corporations would be responsible for the constructions along with infrastructure facilities of JNNURM Programme in their respective Municipal areas instead of the District Collectors and Executive Directors of A.P. State Housing Corporation Limited (APSHCL), Ranga Reddy, Medak, Hyderabad, Visakhapatnam and Krishna Districts and that the Government have directed the District Collectors and Executive Directors of APSHCL of the above Districts to hand over immediately the Housing projects, which are sanctioned and also those, which are currently under execution along with all records to the respective Municipal Commissioners and that as per the Government Orders, the Managing Director, APSHCL, Hyderabad, the District Manager, APSHCL, Ranga Reddy District have handed over all the housing schemes in progress, i.e., UPH, VAMBAY and JNNURM along with accounts to the GHMC, Hyderabad and that at present, the GHMC is constructing the houses to the weaker section people under various housing schemes. Thus, in a way, the 2nd respondent made submissions in the counter affidavit supporting the case of the members of the petitioner-society.

6.2 On the other hand, the 3rd respondent, through the counter of the Deputy Commissioner, GHMC would submit that at present, there is no programme under the scheme JNNURM and that the 2nd respondent is not competent to pass directive orders to conduct survey and that he is not the authority to direct the office of the Deputy Commissioner to conduct verification of eligible members as shown in the list and that the office of the Deputy Commissioner does not have any machinery to send its staff to individual respective members of the petitioner-society for verification as directed by the office of the 2nd respondent and that a society cannot approach on behalf of the individuals collectively and that if the individuals,

who are interested approach the 2nd respondent directly with valid documents, the needful would be done.

6.3 The learned Standing Counsel for the 3rd respondent vehemently contended that the writ petition by a society is not maintainable and that at present, there is no housing scheme under “JNNURM” or any other housing scheme and that keeping in view some future schemes that may be taken up, no socio-economic survey can be conducted at present and that in any view of the matter, the office of the 3rd respondent-Deputy Commissioner is not having necessary machinery and it is not in a position to send its staff to individual respective members of the petitioner-society, i.e., the (300) beneficiaries mentioned in its list and that if the individual beneficiaries approach the 2nd respondent with valid documents, the needful would be done at the appropriate time.

7. Dealing first with the aspect of maintainability of the writ petition by the society on behalf of its members and the proposed (300) beneficiaries in the list submitted by it along with its representation, the contention advanced on behalf of the 3rd respondent that the society cannot represent the common cause of the individual members of the society cannot be countenanced as the requirement in regard to existence of community interest is involved in the matter and the welfare state recognizes the collective strength and bargaining power of the members of a society, particularly consisting of individuals of socially and economically weaker sections. Hence, the contention that the writ petition by the society is not maintainable is rejected being devoid of merit.

8. The learned counsel for the writ petitioner-society would submit that even if there is no beneficial housing scheme in vogue at present, the socio-economic survey may be directed to be conducted by the respondents keeping in view the future beneficial housing schemes that may be taken up by the Government. Therefore, he requested to dispose of the writ petition with a suitable direction. In view of the fair concession by the learned

counsel for the writ petitioner that there is no beneficial housing scheme in progress at present, and therefore, there is no immediate necessity to conduct socio-economic survey in respect of the (300) beneficiaries mentioned in the list furnished by the petitioner-society, what is to be examined is as to whether a direction as sought for by the learned counsel for the writ petitioner society can be given directing the respondents to conduct socio-economic survey insofar as the eligibility of the 300 members in the list keeping in view the future beneficial housing schemes that may be taken up by the Government.

8.1 As rightly urged by the learned counsel for the official respondents, what is to be noted is that the eligibility criteria of the beneficiaries to be identified for extending the benefit of any Government housing scheme would depend upon the object and the guidelines of the particular scheme and, therefore, any survey has to be conducted for identifying eligible persons basing upon the objects and the guidelines of the housing scheme and any socio-economic survey conducted in advance without reference to the objects and the guidelines of any housing scheme would be of no avail. Further, as rightly urged by the learned counsel for the official respondents, the survey in regard to any Government housing scheme shall not be confined to a particular group of members of a society or a particular group of beneficiaries and a survey in general covering all the eligible categories of individuals has to be conducted for identifying the eligible beneficiaries on equitable basis. As further rightly urged by the learned counsel for the official respondents, which competent authority would be required to undertake the responsibility of conducting the required survey would depend upon the scheme, which the Government may undertake, and the directions, which the Government may issue, in that regard with reference to the objects and guidelines of the scheme. Having regard to the facts and submissions, the direction to conduct a survey immediately, as now sought for on behalf of the writ petitioner society, cannot be granted, in the well considered view of this court.

9. Accordingly, the Writ Petition is disposed of holding that the petitioner society is not entitled to the relief claimed in the facts and circumstances of the case. However, the official respondent/s concerned shall conduct the socio-economic survey or any other survey, as and when necessary, as per the directions of the Government to the concerned and the objects and the guidelines governing any future housing scheme that may be undertaken by the Government. It is made clear that as and when such survey becomes necessary to be conducted, the official respondent/s concerned shall include in such survey/s the aspiring members of the petitioner-society also.

There shall be no order as to costs.

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

M.SEETHARAMA MURTI, J

20th January, 2016
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