

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2017

CORAM :

THE HONOURABLE MR.JUSTICE M.S.RAMESH

Writ Petition Nos.16213 and 16214 of 2013
and

M.P.Nos.1 and 1 of 2013

V.Nagamuthu ... Petitioner in W.P.No.16213 of 2013
S.Panneerselvam ... Petitioner in W.P.No.16214 of 2013

Vs.

1.The Secretary to Government,
Fort St., George,
Chennai 600 009.

2.The Managing Director,
Tamil Nadu Slum Clearance Board,
Kamarajar Salai,
Chennai 600 005. ... Respondents in both W.Ps.

Petitions filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records of the second respondent in proceedings Nos.M5/8213/M5/2012, dated 30.06.2012 and M5/8214/M5/2012 dated 02.07.2012 respectively and quash the same and direct the respondents to allot one shop each to the petitioners.

For Petitioners	: Mr.E.Sampath Kumar
For 1 st Respondent	: Mr.A.Zakir Hussain, Government Advocate
For 2 nd Respondent	: Mr.S.Prabhu Standing Counsel

सत्यमेव जयते

COMMON ORDER

Heard Mr.E.Sampath Kumar, learned counsel appearing for the petitioners and Mr.A.Zakir Hussain, learned Government Advocate appearing for the first respondent and Mr.S.Prabu, learned Standing Counsel appearing for the second respondent.

2.Since the facts and cause of action in both the writ petitions are one and the same, a common order is being passed.

3.On 26.12.2004, when tsunami had struck the Marina coastal area, the tenements including that of the petitioners were destroyed. The Tamil Nadu Slum Clearance Board was

entrusted with the work of reconstruction of tenements and the tsunami affected families were enumerated and identified by the Collector of Chennai and by an external Consultation Agency, namely, Community Consulting Indian (P) Ltd., (CCI). As such, the petitioner in W.P.No.16213 of 2013 name was shown as Sl.No.67 in list No.2 which was subsequently moved to list No.1 and his name was reflected in Sl.5. Likewise, the petitioner in W.P.No.16214 of 2013 name was also figured in the list of beneficiaries under list No.1 in Sl.No.117. Accordingly, they were allotted temporary shelters in the same locality.

4.The case of the petitioners is that prior to Tsunami, both of them were running bunk shops in Nochinagar which was their only source of income. When the respondents had not included the names for the purpose of allotment of bunk shops, they had made several representations which were ordered to be considered by this Court in W.P.Nos.6781 and 6782 of 2012 respectively. Pursuant to the same, the petitioners were called to appear before the respondents whereby they had submitted several documents to establish the fact that they had been running shop in the locality. However, by the impugned orders, the second respondent had rejected the petitioners claim for allotment of bunk shops on the ground that there was no document to prove that the petitioners were running bunk shop in Nochinagar. Aggrieved against the same, the petitioners are filed the present writ petitions.

5.On a perusal of the impugned orders, it is seen that the entire allotment was based only on the recommendation of the CCI. The petitioners have come out with a specific case that when CCI had conducted survey in the said area with regard to the erstwhile bunk shops owners, the petitioners were not available in their temporary tenements. The report of the CCI was not prepared after due opportunity to the petitioners but on the other hand, was based on physical verification and enquiries made in the locality. Though the second respondent admits that the petitioners have supplied with a photograph of the bunk shops which they were running in the tsunami affected areas, no reasoning has been given as to why the second respondent had rejected the said photographs. Furthermore, it is the petitioners case that their only source of income was the revenue from the bunk shops and that they had been maintaining a savings bank account wherein they had deposited the income from their respective bunk shops. This aspect has also not been taken into account by the second respondent while passing the impugned orders.

6.The second respondent in the counter affidavit has stated that out of the 30 bunk shops constructed in Nochinagar area, a few shops are yet to be allotted. The petitioners who had submitted some documents to prove that they were running

bunk shops have been ignored. I am of the view that the petitioners were indeed running their respective bunk shops prior to the tsunami affected in their area and as such, they would be entitled for an allotment of a bunk shop in their names in their respective bunk shops.

7. For all the foregoing reasons, the impugned orders passed by the second respondent in Nos.M5/8213/M5/2012, dated 30.06.2012 and M5/8214/M5/2012, dated 02.07.2012 respectively are set aside. The petitioners are granted liberty to make a fresh application to the second respondent with all supporting documents and on receipt of such application, the second respondent shall favourably consider each of the petitioner's case and allot a bunk shop in a suitable place to each of them, within a period of eight weeks from the date of receipt of a copy of this order.

8. With the above observation, the writ petitions stand disposed of. No costs. Consequently, M.P.Nos.1 and 1 of 2013 are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

sms

To

1. The Secretary to Government,
Fort St., George,
Chennai 600 009.

2. The Managing Director,
Tamil Nadu Slum Clearance Board,
Kamarajar Salai,
Chennai 600 005.

+2 ccs to Mr.E.Sampath kumar Advocate sr 1431 & 1432

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