

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.12.2017

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THE HONOURABLE MR. JUSTICE V.PARTHIBAN

W.P.No.17780 of 2010

and

M.P.No.1 of 2010

S.Settu .. Petitioner

Vs.

1.The District Collector,
Tiruvannamalai District,
Tiruvannamalai.

2.The Special Tahsildar (Land Acquisition)
Tamil Nadu Road Development Project,
Tiruvannamalai.

3.The District Employment Officer
Gandhinagar,
Tiruvannamalai District,
Tiruvannamalai.

4.The Member Secretary,
Teachers Recruitment Board,
College Road,
Chennai-6.

Respondents

Petition filed under Article 226 of The Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records in pursuant to the impugned order passed by the 1st respondent in Moomu(M1)/38157/2009 dated 08.07.2010 and quash the same and consequently direct the respondents 1 and 2 to issue land acquisition priority certificate to the petitioner in the prescribed format and direct the 3rd respondent to register the priority in the employment registration card and in the relevant register.

For Petitioner .. Mr.R.Premnarayan

For Respondents.. Mr.R.S.Selvam
Govt. Advocate

ORDER

The writ petitioner herein, has approached this Court, seeking the following relief:

"To issue a Certiorarified Mandamus, to call for the records in pursuant to the impugned order passed by the 1st respondent in Moomu(M1)/38157/2009 dated 08.07.2010 and quash the same and consequently direct the respondents 1 and 2 to issue land acquisition priority certificate to the petitioner in the prescribed format and direct the 3rd respondent to register the priority in the employment registration card and in the relevant register."

2. According to the petitioner, a portion of the land owned by the petitioner's family was acquired for public purpose in the year 2005. The acquired land was used for agricultural purpose by the family members of the petitioner. According to him, after acquisition of land, meagre compensation had been paid.

3.The Government has passed an order in G.O.Ms.No.188 P & AR Department dated 28.12.1976, wherein the Government provided certain priorities in the recruitment through employment exchange for various categories. One of the priorities listed in the Government order is as follows:

"(v) Members of the family (including members of Scheduled Caste / Scheduled Tribe) whose lands have been acquired for Government purposes as well as for the projects of the Public Sector Undertakings subject to the condition that preference should be given to those who are dependent for their livelihood primarily or wholly on the lands acquired and from among them to members of the Scheduled Castes and Scheduled Tribes who may be eligible for employment."

4.The petitioner's family lost a portion of land, which is the subject matter of acquisition proceedings. He had applied for issuance of priority certificate for the purpose of registration of his name in the employment exchange for recruitment to public service. However, the same was not accepted by the official concerned. Therefore, the petitioner constrained to approach before this Court by way of writ petition in W.P.No.21203 of 2009 seeking Mandamus for issuance of land priority certificate. However, this Court had disposed of the above writ petition in W.P.No.21203 of 2009 dated 26.04.2010, directing the first respondent to conduct appropriate enquiry and consider the claim of the petitioner for issuing the priority certificate in the prescribed format on the basis of the acquisition of land belonging to the petitioner.

5.In pursuance of the direction passed by this Court as

aforesaid, an order was passed by the first respondent dated 08.07.2010 rejecting the claim of the petitioner. The said order is impugned in the present writ petition.

6.The learned counsel for the petitioner would submit that since the land of the petitioner and his family had been acquired for public purposes, he was entitled to issuance of priority certificate in terms of G.O.Ms.No.188 dated 28.12.1976. Unfortunately, the authority concerned had denied the entitlement on the reason that a portion of the land of the petitioner was acquired and a major portion of remaining land is with the petitioner, which generates enough income for the petitioner's family.

7.Upon notice, Mr.R.S.Selvam, learned Government Advocate entered appearance for the respondents and filed a detailed counter affidavit.

8.The reasons given by the authorities concerned have been reiterated in the counter particularly in paragraph - 5 of the affidavit, which is extracted as below:

"5. ... Accordingly, higher compensation more than the prevailing market value of the land was paid to the petitioner's family. The amount of compensation given is Rs.4,46,688/- . Out of 4.37.5 Hect. of wet land belonged to the petitioner's family, only 1.38.5 Hect. of wet land alone acquired, leaving a major portion of 2.99.0 Hect of wet lands. According to the norms prescribed by the Govt., the petitioner's family belongs to the category of big farmer. Enquiry reveals that the average agricultural income from the 2.99.0 Hect of wet land is about one lakh per year. Hence normal livelihood of the petitioner's family has not been affected due to the said land acquisition. With reference to G.O.Ms.No.188 P&AR (PER.P) Department dated 28.12.1976, priority in recruitment of Govt. employment is eligible to the members of family whose land have been acquired for Govt. Purposes subject to the condition that preference should be given to those who are dependent for their livelihood primarily or wholly on the lands acquired. Based on the G.O., a format has been prescribed by the Govt. for the issue of priority certificate. For the question 11(b) of the format, it has been mentioned that the day to day livelihood of the family (normal livelihood) has been affected due to the land acquisition. In this

regard, the normal livelihood of the family of the petitioner has not been affected. Hence, the petitioner is not eligible to get priority certificate and the orders passed by the first respondent, the Collector, Tiruvannamalai in his proceedings No.K.Dis (M1)3817/2009 of 08.07.2010 rejecting the request of the petitioner is legally correct. Therefore, the contentions put forth by the petitioner are not maintainable.

9.In view of the categorical statement and averments contained in the counter affidavit, this Court is of the considered view that the petitioner is not entitled to any relief as prayed for.

10.The reliance placed by the learned counsel for the petitioner on G.O.Ms.No.188 dated 28.12.1976, cannot be accepted in view of the fact that the petitioner had means to support his family and no such priority is required to be given in regard to status of the family as explained in the counter affidavit. In view of the above, the writ petition lacks merits and substance and therefore, the same is liable to be dismissed.

11. Accordingly, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True copy//

Sub Assistant Registrar

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To

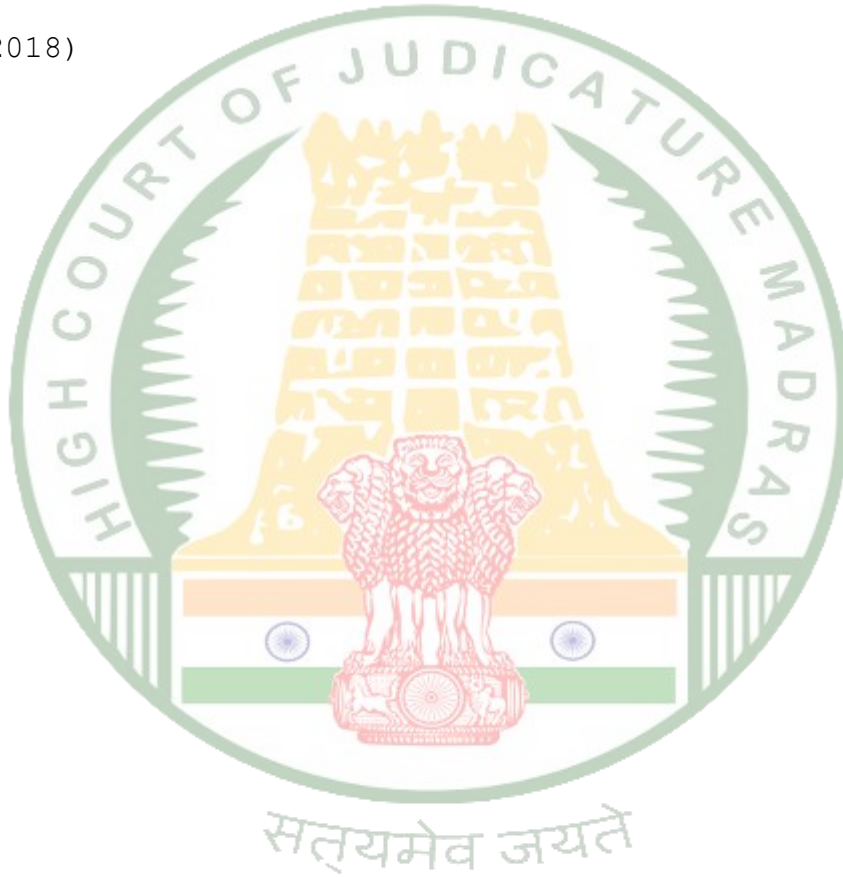
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+1cc to Mr.R.Premnarayanan, Advocate SR.No.87779
+1cc to Government Pleader SR.No.87712

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SJ(CO)
GN(17/01/2018)



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