



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 26.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

AND

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.A.(MD).No.1526 of 2014 &

M.P.(D).No.1 of 2014 &

C.M.P.(MD).No.2520 of 2017 &

National Council of Science Museums,
Sector -V, Block -GN.,
Bidhan Nagar, Calcutta - 700 091. :Appellant/3rd Respondent
Vs.

1.S.Ramasamy

2.The Secretary to the Government of
Tamil Nadu, Chennai - 600 009.

3.The Special Commissioner and Secretary
to the Government,
Electronics, Science and Technology Department,
Fort St.George,
Chennai -600 009.

: Respondents /Respondents

PRAYER:Writ Appeal is filed under Clause 15 of Letters patent Act against the order dated 15.10.2014 in W.P.No.7654 2007.

Prayer in WP(MD). 7654/ 2007 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified Mandamus, to call for the records relating to G.O. (1D) No.29 dated 20.2.2001 (Higher Education Department) of the 1st respondent and quash the same and directing the 1st respondent to perform the promise by providing an employment in any Government Department to the petitioner s son R.Sivakumar in the light of G.O.Ms.No.324 dated 18.3.1986 Revenue Department and G.O.Ms.No.656 dated 29.6.1978 Labour and Employment Department.

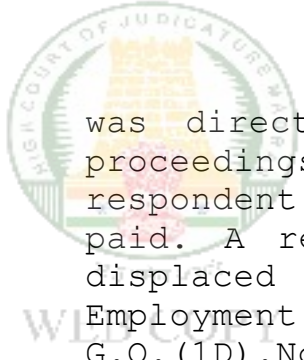
For Appellant : Mr.S.Ilamvaludhi

For Respondents : M/s.S.Saji Bino for R1
Mr.VR.Shanmuganathan for R2 & R3
Special Government Pleader

JUDGMENT

[Judgment of the Court was delivered by **M.M. SUNDRESH, J**]

This appeal is directed against the order of the learned Single Judge, in which the grand son of the person who was the cultivating tenant of the land which was acquired in the year 1985

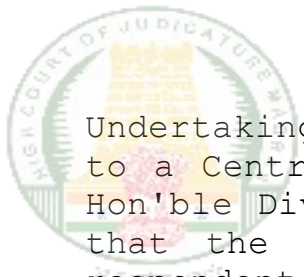


was directed to be considered for an appointment. Acquisition proceedings have been completed in the year 1985. The first respondent's father was a cultivating tenant and compensation was paid. A request was made initially seeking appointment for the displaced persons relying upon G.O.Ms.No.656, Labour and Employment Department, dated 29.06.1978. An order was passed under G.O.(1D).No.29, Higher Education (OP1) Department, dated 20.02.2001, in pursuance to the orders passed by the State Administrative Tribunal, dated 18.06.1998 in O.A.No.4537/1998. This order was passed pursuant to the representation made by the respondent 17.11.1997. The afore-said order rejecting the request was challenged in the year 2007. The State Administrative Tribunal rejected the request of the writ petitioner by holding that the appointment is not feasible for consideration, since the appellant would not have come within the purview of the Government Orders passed namely G.O.Ms.No.656, Labour and Employment Department, dated 29.06.1978 and G.O.Ms.No.324, Revenue Department, dated 18.03.1986 for Central Government Undertaking. Further it was held there was no corresponding duty on the State Government to give employment. The learned Single Judge was pleased to set aside the aforesaid order by directing the appellant to consider the case for employment to the first respondent/writ petitioner's son thought not a party to the proceedings. Challenging the same, the present appeal has been filed by the appellant.

2. The learned counsel for the appellant would submit that the Government orders did not have any application on the case on hand. The grand father of the person to whom the employment is sought for is only a cultivating tenant. The acquisition proceedings was completed in the year 1985 itself. The representation was made by the first respondent/writ petitioner in the year 1997. Even assuming there was any representation earlier, that was not processed and proceeded with by the writ petitioner. The Tribunal passed the order based upon the representation, made in the year 1997. The Tribunal passed the order on 18.03.1986. The Government Order was passed on 20.02.2001. The writ petitioner approaches this Court in the year 2007 that too seeking a relief to his son. Thus, considering the above, the order of the learned Single Judge requires interference.

3. Learned counsel for the first respondent/writ petitioner would submit that the Government Orders would be applicable to the case on hand. The Division Bench of this Court in **Pon Muthu Nadar and another V. State of Tamil Nadu** reported in (2006) 3 MLJ 786, considered the similar facts and held in favour of the persons who have displaced. Therefore, no interference is required.

4. We have gone through the Government Orders at length. As <https://hse.serve360courts.gov.in/hse/services/> served by the counsel for the appellant they did not have any relationship or rational to the Central Government



Undertaking. The scope and applicability of the Government Orders to a Central Government Undertaking was not taken note of by the Hon'ble Division Bench on the earlier occasion. We are of the view that the Government Orders cannot help the case of the first respondent/writ petitioner.

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5. Acquisition proceedings was over in the year 1985. Thus, the displacement has taken place at that point of time. Therefore, the writ petition filed in the year 2007 is still hit by laches, delay and acquiescence. Merely because the Tribunal has directed the State Government to consider the same will not get over the issue pertaining to delay and acquiescence. Even otherwise there is a substantial delay of nearly 7 years. The Writ Petition was filed by the writ petitioner on behalf of his son, who is not a party.

6. Even assuming the Government Orders are applicable, they can be applicable only to a cultivating tenant or his family members or relative at the relevant point of time. When the original cultivating tenant did not make any application or did not pursue thereafter, the same cannot be allowed to continue by his children or grand children after a length of time. This is for the reason that they will not have a status of the cultivating tenant. A cultivating tenant is the one who actually does cultivation on ground physically. Therefore, the definition of family members, even assuming it includes his children and grand children, such Government Orders will be agreed at the relevant point of time and it should be exercised by him alone. Admittedly, the property has been diversified with and that of giving employment is to give succor to the persons deprived of the land. Such a right has to be exercised at the earliest point of time. It is a vested right in that sense it is only a concession to help a person to buy over the financial difficulties prevailing at the relevant point of time. Thus, looking from any perspective, we are of the view that the order of the learned single Judge cannot be sustained in the eye of law. The learned Single Judge, in our considered view, has not taken into consideration of relevant aspects while setting aside the order passed by the Tribunal. In fact, the order passed by the Tribunal which is the subject matter of the writ petition has got no relevance or connection with the appellant.

7. As discussed above, the State Government is merely an acquisition authority. Therefore there is neither any corresponding duty on his part to give employment nor it can compel the appellant to do so. Accordingly, the writ appeal stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(RTI)

Sub Assistant Registrar



To

1. The Secretary to the Government of
Tamil Nadu, Chennai - 600 009.

2. The Special Commissioner and Secretary
to the Government,
Electronics, Science and Technology Department,
Fort St. George,
Chennai - 600 009.

+1cc to M/S. Saji Bino., Advocate, SR. 67802

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