

HON'BLE SRI JUSTICE S.V.BHATT

W.P. No.14785 OF 2013

ORDER:

Heard Mr.P.Vishnuvardhan Reddy for petitioners and the Assistant Government Pleader for Revenue.

The petitioners pray for Mandamus declaring proceedings No.C/2670/2012 dated 20.12.2012 of 3rd respondent holding petitioners as ineligible for grant of possession certification cum provisional allotment order for 23 houses ground + first floor in the group scheme by the JNNURM, GHMC, Hyderabad at Gyani Jail Singh Nagar in T.S. No.7, Block-A, Ward No.12 of Shaikpet Village, Hyderabad, as illegal, arbitrary and unconstitutional. The petitioners pray for a direction to handover constructed houses to all the petitioners under JNNURM Housing Scheme at Gyani Jail Singh Nagar.

The case of petitioners is that the petitioners are poor, not having shelter, belonging to Scheduled Tribe and are eking out livelihood for the past two decades by doing daily labour. The petitioners claim to be residing in Survey No.403 in Gyani Jail Singh Nagar, Shaikpet (for short 'the subject matter').

The area in occupation of petitioners' possession has been named as Gyani Jail Singh Nagar. D-form pattas are issued to nearly 500 families in the said area. The respondents, in spite of assignment in favour of petitioners, were interfering with the

possession of petitioners and petitioners filed W.P. No.676 of 2003. It is alleged that this Court granted interim order restraining respondents from dispossessing petitioners from the property in possession under the D-Form Pattas. On 20.06.2008, the writ petition was dismissed as withdrawn. The petitioners refer to letter No.A/2964/2008 dated 17.01.2009 of 4th respondent proposing for allotment of house-sites in subject matter. The petitioners claim that physical possession of subject matter of the petitioners was taken in the year 2010 for constructing a group housing under one of the welfare schemes implemented by the State. Through letter dated 16.12.2010, the 4th respondent informed 3rd respondent that possession of subject matter was handed over to Executive Engineer (AO), GHMC. In spite of taking possession, the houses are not constructed. The petitioners filed W.P.No.16339 of 2011 complaining against inaction of respondents in constructing houses at the subject matter of writ petition. On 15.10.2012, the writ petition was disposed of. The petitioners place strong reliance upon the following extract from the order dated 15.10.2012:

“Therefore, the 2nd respondent shall cause the Socio Economic Survey of 23 petitioners conducted by a team of the Revenue Divisional Officer, Secunderabad, Special Deputy Collector, KRC, Collectorate, Tahsildar, KRC, Collectorate and Deputy Tahsildar, Shaikpet, who shall complete such Socio Economic Survey within two months from the date of communication of this order and place the same before the Collector for necessary further action. The petitioners may appear before the Revenue Divisional Officer, Secunderabad to enable the team to act as above on 29.10.2012 and to such of those petitioners, who do not appear on that day, the Revenue

Divisional Officer, Secundreabad may cause notices for such appearance before him served on them as per the prescribed procedure. Such of those petitioners, who on such survey will be found entitled to the benefits of JNNURM Housing Programme, shall have the option to exercise for allotment of Flats in Nandanavanam, Saidabad Mandal in Survey No.82 Bandlaguda or the proposed Housing colony at Shaikpet Mandal in Survey No.102/1 of Hakeempet near ABN Andhra Jyothi News Channel building (stated by the learned Special Government Pleader to be within a furlong from the subject site of 882 square yards) or in any other such scheme under execution or proposed anywhere in the twin cities and the District Collector shall extend the benefits of the scheme to such eligible petitioners as per the option they exercise. These directions do not stand in the way of the official respondents considering the request of any of the eligible beneficiaries among the 23 petitioners for being extended the benefit of having such houses under such scheme constructed in any extent of land still available in the subject 882 square yards also. The writ petition is disposed of accordingly with the above direction. No costs."

The petitioners complain that the 3rd respondent has not followed the conclusions recorded by this Court in W.P. No. 16339 of 2011 and the socio-economic survey directed to be conducted is not conducted for determining the socio-economic eligibility of petitioners, but conducted enquiry to deny any benefit to the petitioners. A few of the allegations basing on political affiliations are made. This Court considers it unnecessary to refer to these allegations. The petitioners now are aggrieved by the socio-economic survey conducted by respondent No.3 and the contents of letter No.C/2670/2012 dated 20.12.2012. The 3rd respondent

through communication dated 20.12.2012 found that the petitioners do not satisfy the eligibility criteria for allotment of houses. Hence, the writ petition.

This Court on 15.05.2013 granted interim direction to maintain status quo as on that date vis-à-vis the petitioners' claims are concerned.

The 4th respondent filed counter affidavit and petition to vacate the interim order. The Tahsildar, Shaikpet, denies the occupation of Survey No.403 at Gyani Jail Singh Nagar by 841 families. The possession claimed by petitioners of subject matter is also denied. According to him, the allotment of a Government house under a welfare scheme implemented is depending on the policy and guidelines of the Government issued from time to time. One of the checklist points is socio-economic survey. The persons claiming benefit show or establish that they are in possession of Government land, do not have houses in twin cities or elsewhere, and the actual possession of the Government land. The proof by documents such as ration card, voter I.D. etc. are also verified by the Department. According to 4th respondent, a few hut dwellers encroached the Government land in Survey No.102/1 of Hakeempet Village and not Survey No.403 as stated in the writ affidavit. In the year, 1996, socio-economic survey was conducted, 141 families were found eligible for the assignment of house sites. The area where assignment has been granted is called Gyani Jail Singh Nagar. The petitioners were never in possession of

Gyani Jail Singh Nagar and the possession of subject matter by petitioners is stoutly denied. The 4th respondent accuses 8th petitioner, as having vested interest to occupy the subject matter, has submitted representation with mismatching premises numbers, ration card etc.

The 4th respondent further alleges that the petitioners do not satisfy the conditions stipulated for giving benefit in the socio-economic criteria stipulated by the Government. Petitioners own houses, the petitioners are staying in the houses and whereabouts of a few persons are not known. The 4th respondent refers to procedural irregularities in identifying the beneficiaries between 2009 and 2011. The 4th respondent denies that possession of subject matter was taken from petitioners. Briefly stated, the reply of 4th respondent is that the socio-economic survey as directed by this Court has been conducted and on the procedural aspect followed by RDO/respondent No.3, it is stated that the petitioners on 27.11.2012 have substantially attended the enquiry held by the Committee and have submitted the documents. The Committee has submitted the report to the District Collector. Further, having regard to changed circumstances, the Committee has decided to recommend for construction of Ward Office particularly after taking note of the conclusion that none of the petitioners is eligible for grant of patta certificate in the subject matter of writ petition. According to 4th respondent, the earlier directions of this Court have

been substantially complied with and the recommendations through letter dated 20.12.2012 are legal and tenable.

Mr. Vishnuvardhan Reddy contends that the impugned communication is contrary to the directions issued by this Court in W.P. No.16339 of 2011 as the 3rd respondent failed to give notice to petitioners, afford reasonable opportunity or conduct a detailed enquiry on the socio-economic status of petitioners. Therefore, the recommendations through communication dated 20.12.2012 are illegal, violative of principles of natural justice and arbitrary. The learned counsel contends that notice to petitioners was not issued before a decision is taken by the Committee and communicated to 2nd respondent. According to him, the petitioners are entitled for allotment of houses and denial of allotment is arbitrary and unconstitutional. He prays for setting aside the communication dated 20.12.2012 and prays for remanding the matter to 3rd respondent for consideration afresh and disposal.

The Assistant Government Pleader refers to the possession certificates relied upon by the petitioners and contends that the file in which these certificates have been issued, as already stated in the counter affidavit, bristles with irregularities and illegalities. To bring home his submission from the documents relied upon by the petitioners, he relies upon a few possession certificates to show that persons with 15 years, 20 years and 22 years of age are treated as independent occupants and possession certificates were given by the then Revenue Divisional Officer. The physical verification of

land, he contends, as shown, that none of the petitioners could establish that the petitioners stayed in Gyani Jail Singh Nagar. According to him, the occupants of Gyani Jail Singh Nagar have already been accommodated and the claims of the petitioners are all bogus and ought not to be entertained by this Court.

Replying to the violation of principles of natural justice and the order of this Court, he relies upon the following portion from communication dated 20.12.2012.

“I invite kind attention to the subject and references cited. In compliance to the instructions of the Collector, Hyderabad district under reference 2nd cited the committee constituted for conducting enquiry of Socio-Economic Status of the writ petitioners took up the enquiry. Accordingly notices have been issued to the petitioners to appear before the Committee on 27.11.2012 along with the documents in support of their residential proof and eligibility. The notices have been sent the Tahsildar, Shaikpet Mandal for service on the 23 individuals and to return served copies.

The Tahsildar, Shaikpet Mandall reported that 11 notices have been got served on the individuals through VRO and rest of the notices could not be served due to non-traceable of individuals in the address given by the petitioners. However total 23 notices have been sent through speed post as per the address particulars mentioned in the writ petition and information available in the office of the Tahsildar.

In response to the notices 14 petitioners i.e. Petitioner nos.1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 14, 18, 20, 23 appeared before the Committee on 27-11-2012 and rest of the petitioners did not attend the enquiry. At the time of enquiry on 27.11.2012, the attended petitioners submitted their proof of residence and other documents of their eligibility. Basing on the documents produced the

team ascertained the eligibility of the petitioners by conducting local enquiry. The detailed enquiry with regard to each individual is as follows:

Smt.Suvali Bai has attended. She is wife of Thulasi Ram, who is petitioner No.8 in WP and he did not attend the enquiry on 27.11.2012...”

and contends that the procedure as directed by this Court has been followed and no exception to the report communicated through letter dated 20.12.2012 can be taken. He prays for dismissing the writ petition.

I have taken note of the submissions of learned counsel for parties and perused the record. The controversy centres around small circumstance viz. whether the case of petitioners has been considered as per the directions in W.P.No.16339 of 2011. The undisputed circumstances are that the respondents have taken up socio-economic survey to identify the eligible beneficiaries for allotment of houses. The respondents in support of having sent notices by registered post with acknowledgement due have placed before the Court the postal receipts and also the content of notices. According to respondents, the petitioners, who were available, were served notices and the details if incomplete or inadequate, the non-service of notice to such petitioners cannot be a ground to find fault with the recommendations forwarded by 3rd respondent to 2nd respondent. The scope of enquiry before the Committee is also very limited to finding out the eligibility of petitioners for the benefits under welfare schemes. After going

through the proceedings dated 20.12.2012, this Court is of the view that the issues which have been canvassed earlier, cannot and ought not to be re-agitated by filing the present writ petition. To the extent of conducting socio-economic survey, it is established that the respondents have issued notices, afforded opportunity for availing the benefit under socio-economic status. The documents filed by a few petitioners were considered and claims were rejected. The petitioners, who could not appear before the Committee, having lost the opportunity, do not have locus to complain against the conclusions recorded by 3rd respondent. Further the documents placed by the petitioners themselves show that the petitioners do not inspire the confidence for remitting the matter to respondents for fresh consideration. The petitioners fail to make out any ground against the proceedings impugned in the writ petition. The writ petition fails and is accordingly dismissed. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

S.V.BHATT,J

Date:19.07.2017

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