

HON'BLE SRI JUSTICE S.V.BHATT

W.P. No.5590 OF 2012

ORDER:

Heard Mr.K.S.Murthy for petitioners, Assistant Government Pleader for Panchayat Raj and Mr.Chimalapati Ravi for 5th respondent.

The petitioners pray for Mandamus declaring the action of respondents 1 to 4 in deleting Valiveru Gram Panchayat from the list of Gram Panchayats identified for grounding works under Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS) as illegal and unconstitutional.

The petitioners pray for setting aside the proceedings R.C. No.783/2011-W6 dated 16.02.2012 insofar as Item Nos.5 to 8 are concerned and pray for grounding or execution of the works in accordance with proceedings R.C. No.783/2011-W-6 dated 01.02.2012.

Having regard to the limited submission of learned counsel for petitioners, namely, that the petitioners are interested in allocation of works under MGNREGS to Valiveru and particularly having regard to the statement made by the Principal Secretary, Rural Development that in the event of writ petition being allowed, the works which are the subject matter of writ petition will be immediately grounded and executed by releasing the necessary funds without avoidable delay, prays for appropriate directions while considering the prayer of the writ petition.

The petitioners rely upon proceedings R.C. No.783/2011-W-6 dated 01.02.2012 to contend that respondent No.2 has accepted Valiveru Gram Panchayat as one of the Gram Panchayats for grounding works under MGNREGS. In the proceedings R.C. No.783/2011-W6 dated 16.02.2012 in the place of Valiveru Village, Modukuru Village is included. The challenge of petitioners to proceedings dated 16.02.2012 is on the ground that the works at Valiveru are taken up in terms of the guidelines and modalities in G.O. Ms. No.389, Panchayat Raj and Rural Development (RD.II) Department dated 09.12.2011. It is further contended assuming that the 2nd respondent had to reconsider the priorities, the reconsideration can be for valid, proper and tenable reasons and the reasons should be reflected in the proceedings dated 16.02.2012. Admittedly, no reason whatsoever for substituting Modukuru for Valiveru is available in the proceedings impugned in the writ petition. On this ground alone, the petitioners pray for setting aside the proceeding and issuing appropriate directions.

The 2nd respondent filed counter affidavit and has tried to justify the exclusion of Valiveru Village and inclusion of Modukuru Village in proceedings dated 16.02.2012. Though this Court in these administrative issues may not sit as a Court of Appeal and re-examine the reasons now stated in the counter affidavit, for substitution complained in the writ petition. The reasons stated to explain for substitution are admittedly absent in the proceedings impugned in the writ petition.

On the contrary, the substitution is on account of instructions received during the video conference held on 10.01.2012 with the 1st respondent. This Court is not proposing to refer to other contentions urged by the petitioners. The 2nd respondent in counter affidavit has accepted the entitlement of Valiveru Village for grounding a few works under MGNREGS. The gist of the statement of 2nd respondent is as follows:

“It is further submitted that at present the petitioner village is not grounding the above reasons, whereas, as per G.O.Ms.No.389 the petitioner village also will be covered in the next year because the above works as per G.O. continuous process till 2014.”

From the above, it is clear that the 2nd respondent was compelled to substitute Valiveru Village with Modukuru Village on the instructions of 1st respondent. The 1st respondent has undertaken before this Court to ground the works, if the writ petition is allowed. Since the respondents have priorities and identified Modukuru for execution of works, this Court is not inclined to deny the works identified for grounding at Modukuru, but after appreciating the mode and manner in which Valiveru Village is denied allocation and the jurisdiction of 2nd respondent to remedy the situation, I am satisfied that the writ petition can be ordered as follows:

The 2nd respondent in the current or ongoing process of identification of works either for the year 2016-17 or 2017-18 gives required preference and compensates what is denied to Valiveru Gram Panchayat through proceedings dated 16.02.2012. The

petitioners are given liberty to enclose a copy of this order with a representation for expeditious orders. The writ petition is ordered as indicated above. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

Date: 23.02.2017

Sp

S.V.BHATT,J

