

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 12.12.2018

CORAM
THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
W.P.No.13521 of 2004

C.Rajendran

..Petitioner

vs

1.The Chairman
Neyveli Lignite Corporation.

2.The Special Tahsildar
Land Acquisition
Neyveli - 2.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the 1st respondent herein to provide a suitable employment to the petitioner in the category of displaced owner on account of acquisition.

For Petitioner : Mr.V.Raghavachari

For Respondents : Mr.M.Elumalai
Government Advocate for R1
Mr.N.Nithiyanandam for R2

O R D E R

The relief sought for in the present writ petition is for a direction to direct the the 1st respondent herein to provide a suitable employment to the petitioner in the category of displaced owner on account of acquisition.

2.The learned counsel appearing on behalf of the writ petitioner states that the case of the writ petitioner is an unfortunate one and the promise extended by the respondents had not been complied with. Admittedly, the writ petitioner is the land loser and the lands belonged to the writ petitioner was acquired during the year 1981. A special scheme was formulated at the time of acquisition of lands for the benefit of Neyveli Lignite Corporation, a Government of India undertaking and the writ petitioner also suffered on account of the acquisition of lands belonged to him.

3.The original owner of the property is Mr.Chinnasamy, father of the writ petitioner. At the time of acquisition during

the year 1981, the writ petitioner was a minor and aged about 5 years old. In order to extend the benefit of compensation to the daughter of Mr.Chinnasamy, the land owner Mr.Chinnaswamy requested the land acquisition officer to pass an award in the name of his son-in-law Mr.Murugesan. Accordingly, the Award was passed in the name of the son-in-law of the original owner Mr.Chinnasamy.

4.The grievances of the writ petitioner is that on attaining the age of majority, the petitioner submitted an application seeking employment as per the special scheme. However, the application submitted in this regard by the petitioner has not been considered on the ground that the son-in-law of the original owner was not having any alienable title of the acquired property prior to the 4(1) Notification. In other words, it is contended that the original owner had allowed the land acquisition officer to pass an Award in the name of his son-in-law. Thus, the authorities was of the opinion that the son-in-law is not eligible for availing the special scheme for getting an appointment under the Land Losers category.

5.The learned counsel appearing for the respondents reiterated that the writ petitioner was a minor at the time of the Land Acquisition proceedings and he was aged about 5 years. After a lapse of about 23 years, an application was made by the writ petitioner seeking employment under the special scheme. The special scheme cannot be extended after a lapse of about 23 years in favour of the writ petitioner and further, even during the relevant point of time, the authorities had rejected the claim for providing appointment as the original owner himself was not eligible for getting appointment under the scheme.

6.The learned counsel for the respondents further informed this Court that the scheme was completed long back and now, the same cannot be extended in favour of the writ petitioner and in the event of extending the same, there will be number of such applications and the respondents cannot provide appointment by violating the recruitment rules in force.

7.This Court is of an opinion that the lis on hand is a classic case, where a concession granted for the land losers are denied to the family of the writ petitioner. At the time of the land acquisition to the larger extent, the State is extending certain concessions and such schemes in favour of such land losers. However, on account of delay, such a valuable concession extended is denied to the family of the writ petitioner. Undoubtedly, the writ petitioner was a minor during the relevant point of time. However, no appointment was provided to any other members of the family during the relevant point of time. Atleast, the respondents ought to have extended the benefit to any other family members during the relevant point of time and

there is no information to show that such benefit was extended at the time, when the land was acquired.

8.This Court has to consider the fact that whenever such special schemes are implemented, it must be implemented uniformly and strictly in accordance with the terms and conditions. Such schemes undoubtedly raised in violation of the equality clause enshrined in the constitution. All public appointments are to be made only under the constitutional schemes and by following the rules in force. However, certain exceptions can be derived by formulating such schemes and such special schemes has to be restricted as far as possible in order to minimize the violation of the constitutional mandates and principles. In the event of extending the special scheme for a larger extent, the equality clause will be violated. The constitutional rights of all other meritorious candidates cannot be infringed by the State by introducing more number of special schemes in these type of cases. Equal opportunity in public employment is to be provided to all the eligible and meritorious candidates and all appointments are to be made by following the procedures as contemplated and by way of open competitive process.

9.Thus, this Court is of an opinion that all special schemes must be issued with a time bound manner and in a restricted way and strictly in accordance with the terms and conditions. Any extension of such special schemes would be in violative of the constitutional provisions and the State cannot have any power to violate such constitutional provisions, which infringes the fundamental rights of the eligible citizen, who all are longing for securing public employment by participating through open competitive process.

10.Undoubtedly, the case of the petitioner deserves to be considered during the relevant point of time. But, the case of the writ petitioner or atleast one of the family members of the original owners had not been extended with the benefit of the special scheme introduced by the respondents. Considering the facts and circumstances and considering the age of the writ petitioner as he has crossed 44 years, this Court is of an opinion that, now after this length of time, such special schemes cannot be extended in favour of the writ petitioner. The acquisition was completed during the year 1981 and in the year 1997, the cases were recommended. The application was submitted and the writ petition was filed in the year 2004 and the present writ petition is taken up for final hearing now after a lapse of 14 years by this Court.

11.This Court is of a further opinion that earlier disposal of such cases are also imminent. On account of the systemic failures, the poor litigants cannot afford to suffer. Thus, the

improvements in the system is certainly warranted and therefore, the urgent cases, where the denial of opportunity on account of delay are to be averted as far as possible.

12.In this view of the matter, this Court is unable to grant the relief as such sought for in this writ petition and accordingly, the writ petition stands dismissed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

kak

To

1.The Chairman
Neyveli Lignite Corporation.

2.The Special Tahsildar
Land Acquisition
Neyveli - 2.

+1cc to Mr.N.Nithianandam, Advocate, S.R.No.86476
+1cc to Mr.V.Ragavachari, Advocate, S.R.No.85771
+2ccs to the Government Pleader, S.R.No.86694 & 86265

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PPA (CO)

rrs 08/01/2019

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