

**HON'BLE THE CHIEF JUSTICE
SRI THOTTATHIL B. RADHAKRISHNAN
AND
HON'BLE SRI JUSTICE S.V.BHATT**

WRIT APPEAL Nos.1297 & 1298 OF 2018

COMMON JUDGMENT: *(Per the Hon'ble Sri Justice S.V.Bhatt)*

Heard the learned Special Government Pleader for appellants. Mr.K.S.Murthy for respondents 1 to 34; and the learned Government Pleader (Revenue) for respondents 35 to 38.

2. Respondents 5 and 6 in W.P.No.41342 of 2017 are the appellants herein. Respondents 1 to 34, hereinafter referred as claimants, filed W.P.No.41342 of 2017 and Respondents 1 to 27, hereinafter referred as claimants, filed W.P.No.32868 of 2017 praying for a writ in the nature of Mandamus declaring the action of respondents therein in directing the writ petitioners/claimants to vacate the houses in their occupation in Yellandu and damaging the houses in their occupation without paying rehabilitation and resettlement benefits, as illegal and arbitrary and the claimants have also prayed for a consequential direction directing the respondents therein to implement the relief and rehabilitation package to claimants before dispossessing the claimants from the houses in their occupation or damaging the houses.

3. The learned Single Judge through the common order dated 10.08.2018 impugned in the appeals, after adverting to the pleadings, material on record and rival contentions of the parties and particularly

after taking note of additional affidavit of 2nd appellant herein, allowed the writ petitions with directions as set out in paragraph 66 of the order under appeals. The appellants in these appeals challenge direction No.4 covered by paragraph 66 (d), which reads as follows:

“One family member of such of the petitioners who are Scheduled Tribes shall be provided employment by SCCL as per G.O.Ms.No.34 dt.28.04.2010 within three (03) months from the date of receipt of copy of this order”.

and also against paragraph 66(c) which directed the appellants herein/respondent Nos.5 and 6 in the writ petitions to make available transit accommodation to claimants at its employees' quarters situated at J.K.Colony, Yellandu, Yellandu Town in M.Q. type quarters and T.Q type quarters with electricity and water connection amenities within two weeks from the date of receipt of the order under appeals.

4. The learned counsel appearing for the appellants challenging the direction covered by paragraph 66(d) which is excerpted above contends that the claimants belonging to ST category are not entitled for employment as part of relief and rehabilitation package, particularly by reference to G.O.Ms.No.34 dated 28.04.2010. According to appellants, G.O.Ms.No.34 is not applicable to claimants and the tenor of G.O.Ms.No.34 dated 28.04.2010 does not include the non-tribal area, for G.O.Ms.No.34 deals with tribal area and tribal empowerment policy. Therefore, the order under appeals while considering the benefits of relief and rehabilitation package to which a displaced person is entitled ought not to have issued direction for

employment to one member from displaced family (ST). It is further contended that direction covered by paragraph 66(a) is a comprehensive direction, since a direction is issued to the Joint Collector, Kothagudem to decide the benefits to which the claimants are entitled as part of relief and rehabilitation package. The learned Single Judge ought not to have segregated the obligation to provide employment under G.O.Ms.No.34 and further directed providing employment to one family member of displaced person (ST).

5. Mr.K.S.Murthy submits that the right for employment is made by referring to Board Resolution dated 29.05.2013 of appellants and also the proceedings of the Joint Collector dated 17.08.2015. He places reliance on board decision dated 29.05.2013, No.5.34.3 which reads as follows:

“After deliberation, the Board accorded approval for;

- (a) Implementing Tribal Empowerment Policy as per G.O.Ms.No.34 dated 28.4.2010 issued by Social Welfare department, Govt. of A.P by providing employment to one member of each of Tribal Project Displaced Families from whom SCCL has acquired their dwelling units for the purpose of mining projects;
- (b) Recruitment 665 Scheduled Tribe candidates in unskilled/skilled vacancies after identifying category/cadre posts in scheduled areas by the Industrial Engineering department by giving Special Drive Notification as per the Recruitment Procedure in vogue which also increases the ST reservation satisfaction to 6% stipulated as per RoR”.

and also proceedings of the Project Administrator and Joint Collector, Khammam dated 17.08.2015 and submits that as against 34 claimants,

there are a few eligible ST families. According to him, G.O.Ms.No.34 is adopted by a Board Resolution and also accepted as one of the benefits to which a claimant is entitled by the Project Administrator in proceedings dated 17.08.2015. Hence, to avoid ambiguity in providing employment to one family member of displaced family (ST), direction 66(d) is issued the by learned Single Judge and no exception can be taken.

6. The challenge of appellants against the direction to provide employment to one family member of displaced family (ST) is on the premise that G.O.Ms.No.34 dated 28.04.2010 is not applicable. The project affected area does not come within the area of tribal development area. In our considered view, the said contention is unfounded for the reason that the then Government of A.P issued G.O.Ms.No.34 dated 28.04.2010 called 'Tribal Empowerment Policy 2010-2015'. The aspects which have bearing on empowerment of tribal as policy are laid down in G.O.Ms.No.34 dated 28.04.2010. It is not in dispute that the appellants by referring to the very same policy passed Board Resolutions extending the benefits of G.O.Ms.No.34. The Project Administrator-cum-Joint Collector recognized the obligation as extended through Board Resolution and issued directions through proceedings dated 17.08.2015 to provide employment to one member of displaced family (ST). The appellants are prevented in law from raising the objection that G.O.Ms.No.34 dated 28.04.2010 is not applicable to claimants, having due regard to

the Board Resolution and also that the proceedings dated 17.08.2015 to Project Administrator and Joint Collector are in operation and there is no challenge to these proceedings by anyone, including the appellants. Therefore, the objection raised against direction covered by paragraph 66(d) is without merit and, accordingly, the contention fails and is rejected.

7. The appellants further contend that they, as directed by the order under appeal i.e., paragraph 66(c), offered houses to the claimants and the claimants by showing lame and untenable excuses are not vacating the houses, or occupying the M.Q/T.Q type quarters offered by the appellants. The reason, as stated by appellants that the claimants were not accepting the quarters offered by the appellants, is not that the quarters are not in habitable condition, the toilets are completely out of shape etc. Mr.K.S.Murthy refuting the submission submits that the claimants are prepared to occupy M.Q/T.Q type quarters as transit accommodation, if the amenities commensurate to the situation are provided by the appellants. In our considered view, these issues need not detain us too long and at the same time, this Court cannot also relieve the appellants to consider the reasonable proposals of claimants in updating the quarters and made it habitable. Therefore, to balance these competing statements and to give quietus, we observe that the appellants get the quarters now set apart for transit accommodation of claimants inspected by one of its welfare officers, and with the satisfaction certificate of welfare officers, the quarters

may be offered to claimants and the claimants are under obligation to accept the quarters certified by the officer of appellants. The said exercise is undertaken and completed within two weeks from the date of receipt of a copy of this order.

8. The writ appeals are disposed of with the above observations.
No order as to costs.

As a sequel thereto, miscellaneous petitions, if any pending, stand closed.

THOTTATHIL B. RADHAKRISHNAN, CJ

S.V.BHATT, J

29th October, 2018

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