

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.6.2020

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WRIT PETITION NO.26406 OF 2012 & MP.NO.1 OF 2012
(heard through video conferencing)

Padmavani Educational and
Charitable Trust, rep.by its
K. Duraisamy, Joint Managing Trustee,
Salem-4

...Petitioner

Vs

1.The Government of Tamil Nadu,
rep.its Secretary, Housing &
Urban Development Department,
Fort.St.George, Chennai-9.

2.The Tamil Nadu Housing Board,
rep.by its Chairman, No.493,
Anna Salai, Chennai-35.

...Respondents

PETITION under Article 226 of The Constitution of India
praying for the issuance of a Writ of Certiorarified Mandamus to
call for the records of the respondents pertaining to the order
of the 1st respondent in Letter No. 23455/LA4(2)/07-1 dated
05.8.2008, quash the same and consequently direct the 1st
respondent herein to forthwith take appropriate decision on the
representation of the petitioner dated 13.10.2011 on the basis
of the recommendations submitted by the High Level Committee
dated 29.10.2008.

For Petitioner : Mr.Kandhan Duraisami
For Respondent-1: Mr.M.Elumalai, GA
For Respondent-2: Mr.I.Sathish

ORDER

I have heard Mr.Kandhan Duraisami, learned counsel for the
petitioner, Mr.M.Elumalai, learned Government Advocate appearing
for the first respondent and Mr.I.Sathish, learned counsel
appearing for the second respondent.

2. The petitioner has impugned the letter dated 05.8.2008,
by which, the request made by the petitioner, which is a
educational charitable trust for re-conveyance of an extent of

1.66.5 hectares in S.F.No.69/2A, Kotta Goundampatti Village, Omalur Taluk, was rejected by the first respondent.

3. Among other things, it has been stated in the impugned order that the petitioner trust purchased an extent of 2.05 acres of land in S.F.No.69/2A on 09.10.2003 from the erstwhile land owner one Mr.P.S.Venugopal by a registered sale deed dated 25.11.2004, which was after an award passed in the land acquisition proceedings and that the petitioner, being a subsequent purchase, was not entitled for any relief under Section 48B of the Land Acquisition Act, 1894 as amended by the Amendment Act, 1996.

4. The case of the petitioner is that the purpose, for which, the petitioner trust sought for re-conveyance of the land is to establish an educational institution and more particularly a college for women. The request made by the petitioner trust was placed before the High Level Committee constituted by the Government to consider such a request for re-conveyance/release of the lands from the rigour of the land acquisition proceedings.

5. The learned counsel for the petitioner has invited the attention of this Court to the draft recommendations made by the High Level Committee on the request made by the petitioner for release of the lands in S.F.No.69/2A, Kotta Goundampatti Village, Omalur Taluk, in which, the Committee opined that the petitioner requires the land for expansion of a college for women and that the District Collector, Salem had also recommended that there was no college for women in a radius of 15 Km and that if the lands are given to the petitioner trust, it would help them to provide education and uplift the poor women students in the area by introducing more courses in the institution.

6. The Committee further opined that due weightage should be given to the recommendations of the District Collector, Salem that the lands are required for educational purpose and more particularly for women empowerment. The High Level Committee was conscious of the fact that the request made by the petitioner would not come under Section 48B of the said Act. Yet the Committee opined that the request made by the petitioner seemed to be a bone fine request as the lands are required for educational purposes. Therefore, the High Level Committee recommended that the lands may be released on calculation of either the guideline value or the market value without any loss to the Housing Board.

7. The contention of the petitioner is that the Government, while passing the impugned order, did not take note of the vital recommendations made by the High Level Committee.

8. In the counter affidavit filed by the first respondent, which has been relied upon by the learned Government Advocate, the proceedings initiated under the said Act had been set out in elaborate manner and it has been stated that the award had been passed after complying with all the formalities, that patta had been transferred in the name of the Housing Board, that the layout had been formed, that the Local Planning Authority also approved the formation of the road, etc., and that the Tamil Nadu Housing Board invested huge amount towards preliminary work such as name board, fencing, etc. It has also been stated that the petitioner was not entitled to re-conveyance under Section 48B of the Act and that the lands were essentially required for a comprehensive housing scheme.

9. It appears that these contentions were heard by a learned Single Judge of this Court on an earlier occasion, which prompted the Court to issue an interim direction on 02.4.2013 by giving liberty to the petitioner to make a representation to the first respondent in the light of the recommendations of the High Level Committee. It was further observed that till then, the writ petition could be kept pending.

10. This Court has been informed by the learned counsel for the petitioner that in due obedience of the said observation/liberty granted, the petitioner submitted a representation to the first respondent on 17.4.2013 and that the same is still pending. Considering the above facts, this Court is of the view that no useful purpose will be served in keeping the writ petition pending especially when the petitioner made a fresh representation on 17.4.2013 seeking release of the lands.

11. The first respondent would be right in contending that the petitioner may not be entitled to the benefit under Section 48B of the Act. In fact, the High Level Committee, which recommended the petitioner's case, was also of the same view, which is the correct legal position. Nevertheless, the High Level Committee thought it fit to give recommendations because the petitioner sought for release of the lands for the purpose of expansion of an educational institution and exclusively for imparting education to women in the locality. Therefore, the High Level Committee thought fit to recommend to the Government to release the lands from the acquisition proceedings by collecting the market value or the guideline value, thereby not causing any loss to the Housing Board.

12. Considering all these factors, this Court is of the view that the first respondent should take a decision on the representation of the petitioner dated 17.4.2013 and while doing so, the first respondent should bear in mind the recommendations made by the High Level Committee. This Court is conscious of the fact that the recommendations made by the High Level Committee may not be binding on the Government. Yet it can have a persuasive effect to decide as to the bona fides of the petitioner's claim qua the requirement of the lands for educational purposes.

13. In the light of the above, without setting aside the impugned order, the writ petition is disposed by directing the first respondent to consider the petitioner's representation dated 17.4.2013 as expeditiously as possible and preferably on or before 30.9.2020. In order to facilitate the Government to take a decision, the petitioner is directed to submit a fresh representation enclosing a copy of the earlier representations, a copy of this order as well as a copy of the recommendations made by the High Level Committee and all other relevant details as annexures to the representation. On receipt of the same, the first respondent shall take a decision in accordance with law. No costs. Consequently, the connected MP is closed.

Sd/-
Assistant Registrar(CS I)

//True Copy//

Sub Assistant Registrar

RS

To

1.The Secretary to Government of Tamil Nadu,
Housing & Urban Development Department,
Fort.St.George, Chennai-9.

2.The Chairman, Tamil Nadu Housing Board,
No.493, Anna Salai,
Chennai-35.

WP.No.26406 of 2012
and MP.No.1 of 2012

JP(CO)
EU 26.6.2020