

THE HON'BLE SRI JUSTICE A.ABHISHEK REDDY

WRIT PETITION No.1667 of 2009

ORDER:

This Writ Petition is filed seeking the following reliefs:

“ declaring the action of the Respondents 1 to 3 in not allotting the Government land for the purpose of house sites to the Petitioners Society in Sy.No.191 of Kothur Village, R.C.Puram Mandal, Medak district as wholly arbitrary, highly illegal, unjust and unconstitutional being violative of Art.14 & 19 of Constitutional of India when the 4th Respondents' Society were allotted the land in the same Sy.No. for the House sites on payment of market value for Rs. 6 lakhs per Acre vide G.O. M.S. No.66, dt. 22-01-2009 and consequently direct the Respondents 1 to 3 to allot the Government land for the purpose of house sites to the Petitioners Society in Sy.No.191 of Kollur Village, R.C. Puram Mandal, Medak district or in the alternative to cancel the G.O. M.s. No.66, dt. 22-01-2009 allotting the land for house sites in Sy.No. 191/2 Kollur Village, R.C.Puram Mandal of Medak district in favour of the 4th Respondent by the Govt. as discriminatory and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

2. The brief facts of the case are that the petitioner-The Medak Media Mutually Aided Cooperative Housing Society Ltd., Sangareddy, a registered Society, made a representation to the 3rd respondent-the District Collector on 25.09.2008 to allot government land in survey No.191 of Kollur Village of R.C. Puram Mandal, Medak District, to an extent of Ac.5.00 gts. to the petitioner-Society for the providing house sites to its members. That the 3rd respondent vide letter No.E3/7513/2008, dated 07.11.2008, informed the petitioner society that the land in Kollur Village, R.C.Puram Mandal, is a prime land having high potential value and within the outer Ring Road, as such, the said land cannot be allotted and requested the petitioner to select alternative land. Thereafter, the 4th respondent-The District Journalist

Mutually Aided Co-operative Housing Society, has also applied for allotment of Government Land to an extent of Acs.3-00 guntas in survey No.191/2 of Kollur Village, R.C.Puram Mandal, Medak District, for the purpose of providing house sites to its members and the same was also rejected by the 2nd respondent-the Special Chief Secretary and Chief Commissioner of Land Administration. Subsequently, the 4th respondent agitated the same issue for allotment of the land before the Empowered Committee and the Empowered Committee agreed to send the proposal for allotment of the said land to the Government. The 1st respondent without assigning any reasons for by-passing the view of the Empowered Committee, had ordered for alienation of the government land, vide G.O.Ms.No.66, dated 22.01.2009, to an extent of Acs.3.00 guntas of land in survey No.191/2 at Kollur Village, in favour of the 4th respondent on payment of Rs.6 lakhs. Thus, aggrieved by the action of the respondents in not extending the same benefit of allotment of land in their favour, as was done in the case of respondent No.4, the petitioner has filed the present writ petition in this Court.

3. The 3rd respondent has filed his counter denying the averments made in the writ petition and has stated that the Government, after taking into consideration the proposals submitted by the Chief Commissioner of Land Administration which were forwarded by the Empowered Committee for taking an appropriate decision, has ordered for alienation of the government land to an extent of Ac.3.00 in Sy.No.9/2 situated at Kollur Village of Ramachandrapuram Mandal, in favour of the 4th respondent on payment of Rs.6 lakhs per acre. Pursuant to the G.O. issued by

the Government, the District Collector vide letter No.E3/7294/2005, dated 27.01.2009, has directed the 4th respondent to remit the amount of Rs.18 lakhs and the same was accordingly remitted vide challan No.33729 dt.27.01.2009, and the possession was handed over to the Society vide panchanama, dated 31.01.2009, and they are in possession and occupation of the same. Insofar as the prayer of the writ petitioners is concerned, they were directed to select an alternative land, but they have not done so far though the said communication was issued vide letter No.E3/7613/2008, dated 07.11.2008. That earlier another Society filed writ petition, which was numbered as W.P.No.1939 of 2009, questioning the very same Government Order i.e., G.O.Ms.No.66, dated 22.01.2009, and the same was disposed of by the Division Bench of this Court along with other writ petitions.

4. The 4th respondent has also filed its counter denying the averments and allegations made in the writ petition and stating that the Government, after carefully considering the recommendations of the Empowered Committee and also the needs of the respondent-Society, has allotted the land in question and after payment of the necessary amount, the possession was handed over to the respondent-Society and thereafter, they were issued pattedar passbooks and title deeds by the revenue authorities and their names are also mutated in the revenue records. Thereafter, the Society divided the land into plots and allotted the same to its members and registered sale deeds were also executed in favour of the members of the Society. The writ petitioner instead of selecting an alternative land as directed by the

District Collector has filed the present writ petition without any legal right. That the members of the writ petitioner-society are not accredited journalists but are only working in various T.V. Channels as Camera men and Assistant Camera men etc., and as such they are not entitled for the benefit of G.O.Ms.No.243, dated 28.05.2005. That unless and until, the journalists are accredited, as envisaged under various Rules, they are not eligible for any benefit from the Government. The allotment which was made by the Government is strictly in accordance with the allotment policy of the Government issued vide G.O.Ms.No.243, dated 28.02.2005, and the members of the respondent-Society are fully eligible for allotment of the said land.

5. During the pendency of the writ petition, this Court vide order, dated 14.06.2019 in I.A.No.2 of 2018, has impleaded the 5th respondent i.e., Kontham Suvarnalatha in the writ petition.

6. It is the case of the 5th respondent that originally one Sundar Raj was assigned an area of Acs.2-39 guntas in Sy.No.191 of Kollur Village of and Ac.0.01 gunta in Sy.No.30 of Osmannagar village of Ramachandrapuram Mandal, in the year 1975 and his name was mutated in the revenue records and he was issued pattedar passbooks and title deeds. After the death of Sunder Raj, the revenue records were changed in the name of his wife Smt.J.Sundaramma and in the year 2003 the family members of the deceased Sunder Raj sold the above said land in favour of Kondur Venkateswar Prasad by executing a GPA, who in turn sold the above said land to one Sri C.Lakshmikar Reddy under registered sale deed bearing document No.10854/2003 and his

name was also mutated and he was issued pattedar passbooks and title deeds by the M.R.O., Ramachandrapuram. The 5th respondent is claiming Ac.1.00 in Sy.No.191/2 and 191/5 but has not given any break up of the land situated in each survey number. Though she has sought cancellation of allotment made in favour of the 4th respondent, for the reasons best known to her she has not filed a separate writ petition seeking similar relief.

7. Heard Sri Palle Srihari Nath, the learned counsel for the petitioner, and the learned Government Pleader for Assignment, for respondents 1 to 3, and Sri K.R.Prabhakar, the learned counsel appearing for respondent No.4.

8. The learned Counsel appearing for the petitioner has strenuously contended that initially when they have applied for allotment of the land in this particular survey number, the same was rejected by the Empowered Committee and subsequently, the very same land was allotted to 4th respondent vide G.O.Ms.No.66, dated 22.01.2009, without assigning any reasons, and as such, the said allotment of land is not only discriminatory but the same is an arbitrary exercise of power by the official respondents.

9. Per contra, the learned Government Pleader for Assignment has vehemently argued that the allotment of land to the respondent-Society was perfectly in consonance with the policy of the Government and duly following the procedure. The prayer of the writ petitioner cannot be granted as the petitioner-society cannot as a matter of right ask for allotment of Government land in a particular survey number. That the District Collector vide letter No.E3/7613/2008, dated 07.11.2008, has given the option to the

writ petitioner to select an alternative land, but till date, they have not done so and as such, they cannot question the allotment made in favour of the 4th respondent-Society and hence, sought for dismissal of the writ petition.

10. The learned Counsel appearing for the 4th respondent while requesting this Court to dismiss the writ petition has vehemently argued that the writ petition is filed seeking cancellation of the G.O. issued in favour of the 4th respondent which cannot be countenanced in view of the fact that the writ petitioner-society do not meet the eligibility criteria, as envisaged in G.O.Ms.No.243, dated 28.02.2005. The 4th respondent-Society is having only accredited journalists as its members and since the last 30 to 40 years, they have been pursuing the Government for allotment of land to its members. That subsequent to the allotment made by the Government the land was sub-divided into plots and allotted to the members of the Society, registered sale deeds were also executed and the individual members were put in possession of their respective plots. Though the District Collector vide letter, dated 07.11.2008, has directed the writ petitioner-society to identify an alternative land for allotment, the society instead of selecting an alternative land, have chosen to file the present writ petition and the prayer in the same cannot be granted by this Court.

11. The writ petition is filed by the petitioner-society seeking a Writ of Mandamus declaring the action of the respondent Nos.1 to 3 in not allotting the Government land for for the purpose of house sites to the petitioner-Society in survey No.9 of Kollur Village,

Ramachandrapuram Mandal, Medak District, as wholly arbitrary and illegal. The above prayer makes it clear that the writ petitioner-Society is questioning the non-allotment of the land in a particular survey number and in the alternative to cancel the G.O. issued in favour of the 4th respondent herein allotting land. Hence, it is imperative to examine as to whether the above two prayers can be granted by this Court or not. Insofar as the first prayer seeking allotment of land in a particular survey number is concerned, no person can have any vested right to seek allotment of Government land in a particular survey number. It is for the officials to examine the proposal/representation of the person seeking allotment of land and came to a conclusion as to which parcel of land is suitable for allotment and no person or society can claim, as a matter of right, that Government land in a particular survey number be allotted to them. It is for the officials to decide which land is available and can be allotted to the Society or not. This Court under Article 226 of the Constitution of India cannot issue a mandamus to the officials to allot a particular piece of land in a particular survey number in favour of a particular person or society. Therefore, the prayer sought is beyond the scope of the writ jurisdiction under Article 226 of the Constitution of India and the same is rejected.

12. Insofar as the second limb of the prayer seeking cancellation of allotment of the land in favour of the 4th respondent-Society is concerned, it is an admitted fact that the 4th respondent after the land was allotted has not only divided the same into plots but the plots have been registered in the name of individual plot owners. The writ petitioner without making the individual plot owner as

party respondents cannot seek for cancellation of the allotment of the land. That the writ petition has also to be dismissed on the ground of not making the members of the society as party respondents as they are necessary and proper parties to the writ petition. Though, the writ petitioner one hand claims that the allotment of land to the 4th respondent is illegal and against the policy of the Government, on the other hand, seeks parity with the said 4th respondent Society and the same cannot be countenanced and the petitioner cannot blow hot and cold at the same time. The writ petitioner on one hand cannot claim that an illegality or irregularity has been committed by the 3rd respondent to favour the 4th respondent society, and invoke the jurisdiction of this Court under Article 226 of the Constitution of India and seek a similar relief for repeating the very same irregularity or illegality in its favour. Equality is a trite, which cannot be claimed in illegality, and therefore cannot be enforced by a citizen or Court in a negative manner. Even if some similarly situated persons/society have been granted some benefit, inadvertently or mistakenly, such benefit cannot confer any right to the petitioner society to get the very same relief.

13. In view of the above mentioned facts and circumstances, the writ petition is devoid of merit, and the same is accordingly dismissed. However, in the peculiar circumstances of the case, the writ petitioners, if they are so advised, can make a representation to the District Collector, Medak (Sanga Reddy), for allotment of alternate land in terms of letter No.E3/7613/2008, dated 07.11.2008, and on such representation being made, the respondent Nos.1 to 3 herein are directed to consider the same, as

expeditiously as possible, preferably within three months from the date of receipt of the said representation. In view of the dismissal of the writ petition, no relief can be granted in favour of the 5th respondent.

The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

A.ABHISHEK REDDY, J

Date : 10-01-2020.
smr/sur

