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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2021

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.NO.22586 OF 2011

AND

M.P.NO.1 OF 2011

Tmt.R.Tamilarasi

... Petitioner

Vs

1. District Collector,
Namakkal,
Namakkal District.

2. District Employment Exchange Officer,
Namakkal, Namakkal District.

...Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Certiorari, calling for the records pertaining to the order passed by the 1st respondent in his proceedings Na.Ka.21477/2009/A3 dated 20-09-2011 and quash the same.

For Petitioner : Mr.C.Vediappan
For M/s.C.S.Associates

For Respondents : Mr.M.Rajendran
Additional Government Pleader

ORDER

The order passed by the first respondent dated 20.09.2011, cancelling the Priority Certificate for employment is under challenge in the present writ petition.

2. The writ petitioner made a submission that the writ petitioner and 10 others joined together and purchased the agricultural land in N.Pudupatty Village through Sale Deed dated 21.05.2007. All the said purchasers (writ petitioner and some



others) were unemployed graduates and stated that they were not having sufficient fund. Thus, they have joined together and purchased the land. The Acquisition proceedings were initiated in the year 2006 by the Adi Dravidar and Tribal Welfare Department for providing house site to the landless Adi Dravidars in that locality. The petitioner participated in the land acquisition proceedings as he purchased the land in the year 2007. Based on the acquisition, the petitioner along with other purchasers obtained a Priority Certificate from the Tahsildar for the purpose of getting priority in Government appointments.

3. On enquiry, the respondents found that some fraud had been committed for the purpose of obtaining Priority Certificate. For getting public employments, the said Priority Certificate issued was cancelled by the first respondent / District Collector. The writ petitioner filed W.P.No.17573 of 2009, challenging the cancellation order cancelling the Priority Certificate. The writ petition was dismissed on 06.11.2009 and W.A.No.1877 of 2009 was filed and the writ appeal was remanded back for fresh hearing on the ground that the petitioner was not provided with an opportunity or show cause notice. Thus, the first respondent issued notice to the writ petitioner and other persons to appear for an enquiry and an enquiry was conducted on 18.07.2011. After conducting enquiry, the first respondent/District Collector passed the impugned order in proceedings dated 20.09.2011, cancelling the Priority Certificate.

4. The learned counsel for the petitioner made a submission that the petitioner along with 10 others purchased the land and the sale deed was properly executed. Based on the acquisition proceedings, the Priority Certificate for employment was issued and there was no infirmity. Thus, the writ petition is to be considered.

5. The learned Additional Government Pleader appearing on behalf of the respondents objected the contentions raised by the petitioner by stating that during the year 2009, it was brought to the notice of the District Administration that several persons have obtained postings based on priority certificates issued by the Revenue officials against the principles enunciated in G.O.Ms.188, Personal and Administrative Reforms Department dated 28.12.1976 and G.O.Ms.324, Revenue Department, dated 18.03.1986. There were complaints from many unemployed graduates and representations also submitted by the public about the illegal activities, securing public employment by obtaining priority certificate in a fraudulent manner.



6. The Government acquires land for public purpose, after observing statutory formalities. Thus, the preferential treatment in the matter of employment is granted to the members of the family, whose lands have been acquired for Government purposes. In respect of the priority certificate obtained by the petitioner and other persons, who have involved in such illegal activities, the Revenue Divisional Officer, Namakkal, was requested to send factual reports on the substance of the allegations raised. According to the report, (i) 27 persons had obtained 'Priority Certificate' from the Special Tahsildar (ADW) and 11 persons got this 'Certificate' from the Tahsildar, Namakkal as if they lost their substance of income due to Land Acquisition process, but the reality is different, (ii) A group of persons from urban / Rural areas have schematically conspired a novel idea that they may be benefited in getting employment by virtue of the government orders referred to, if their lands were acquired. The Revenue Divisional Officers have sent detailed reports after detailed enquiries that the aforesaid individuals have got means of sustenance apart from the lands parted which is in meager extent for acquisition, the Priority Certificates issued to the 38 persons, who were involved were cancelled by the authority in proceedings dated 10.08.2009. The writ petitioner is also one among the 38 persons, who purposely purchased a piece of 0.20 cents of land in S.No.264A/1 of N.Pudupatty Village, Namakkal Taluk having registered to area of 1.20 acres along with 5 others jointly and a document to that effect was also executed in Doc.No.1718/2007, dated 22.05.2007. All the said 6 persons have received the compensation awarded by the Special Tahsildar (ADW), Namakkal.

7. The respondents have stated that the decision was taken only after conducting a detailed enquiry by the authorities and on receipt of report from the Revenue Divisional officers. Opportunity was granted to the writ petitioner to appear for the enquiry on 18.07.2011 and the petitioner also appeared and recorded her written statement and the said written statement was taken into consideration by the respondents before passing final orders.

8. It is contended that the order impugned is a speaking order and the entire facts and circumstances are narrated in the order impugned itself.

9. The respondents state that the object of giving priority certificates to give preference in Government Services in respect of persons whose lands were acquired for Government purposes and those who have no other sources of income except the land acquired. But, in this case, the writ petitioner jointly purchased an extent of 1.20 acres of land along with 5



others in N.Pudupatty Village and a document to that effect was also executed in Doc.No.1718/2007, dated 22.05.2007. The extent of 0.20 acres of land belonging to the writ petitioner was also involved among the total acquisition. She got a job on priority basis as a secondary grade Assistant in the Panchayat Union Elementary School, Ariyagoundampatty, Rasipuram Taluk, by virtue of fraudulent certificate. She owns two houses in periapatty village, within the peripheral area of Namakkal municipality, worth about as Rs.20 Lakhs. Her husband is a lorry fleet owner and derives substantial income from lorry transport. Her mother in-law owns 0.31.0 Hectare of land in periyapatty village, which may fetch a market value of Rs.20 Lakhs. The writ petitioner was not depending on the acquired land for her livelihood. She has purchased the land with ulterior motive.

10. When the Government acquires lands for public purpose, they do so after observing statutory formalities and take possession of the lands so acquired by awarding compensation to the land owners. In order to alleviate the mitigation of these displaced persons, the government had thought it fit to give preferential treatment in the matter of Employment through Employment exchange, and passed order in G.O.Ms.188 Personal and Administrative Reforms Department, dated 28.12.1976 that "Members of the family whose lands have been acquired for government purposes as well as the projects of the public sector undertakings subject to the condition that preference should be given to those who are dependent for their livelihood primarily or wholly on the lands acquired and from among them to members of the Schedule Castes and Schedule Tribes who may be eligible for employment.

11. The Writ petitioner got a job on priority basis as a secondary grade Assistant in the Panchayat Union Elementary School, Ariyagoundampatty, Rasipuram Taluk, by virtue of fraudulent certificate. She owns two houses in periapatty village, within the peripheral area of Namakkal municipality, worth about as Rs.20 Lakhs. Her husband is a lorry fleet owner and derives substantial income from lorry transport. Her mother in-law owns 0.31.0 Hectare of land in periyapatty village, which may fetch a market value of Rs.20 Lakhs. The writ petitioner was not depending on the acquired land for her livelihood. So the impugned order clearly states that the acquired land was not a major source of substance of the family and hence the priority certificate was cancelled.

12. The writ petitioner along with 5 others had purchased the land on 22.05.2007 and given their option to Adi Dravidar Welfare Department on 16.06.2007 for acquisition of land for House site pattas. The Adi Dravidar Welfare Department was



completed the acquisition process on 29.08.2007. As per government order only to those whose lands have been acquired for government purpose when they primarily or wholly depended on such lands for their livelihood are only eligible for getting priority certificate. The writ petitioner was not primarily or wholly depending in the above land for his livelihood. The said G.O. Make it clear that for every land acquired the land owner is not entitled for priority certificate and it clearly states that "preference should be given to those who are dependent for their livelihood primarily or wholly on the lands acquired."

13. The object of giving priority certificate to give preference in Government services in respect of persons whose lands were acquired for Government purposes and those who have no other sources of income except the land acquired. But, in this case, the writ petitioner jointly purchased an extent of 1.20 acres of land along with 5 others in N.Pudupatty village and a document to that effect was also executed in Doc.No.1718/2007, dated 22.05.2007. All the said 6 persons have received the compensation awarded by the Special Tahsildar (ADW), Namakkal. The extent of 0.20 cents of land belonging to the writ petitioner was also involved among the total acquisition.

14. The Writ petitioner got a job as secondary grade Assistant in the panchayat union primary school, Ariyagoundampatty, Rasipuram Taluk, by virtue of fraudulent certificate. She owns two houses in periapatty village, within the peripheral area of Namakkal municipality, worth about as Rs.20 Lakhs. Her husband is a lorry fleet owner and derives substantial income from lorry transport. Her mother in-law owns 0.31.0 Hectare of land in periyapatty village, which may fetch a market value of Rs.20 Lakhs. The writ petitioner was not depending on the acquired land for her livelihood. The vital fact was suppressed by her while getting the priority certificate.

15. Elaborate enquiry which were made about the 6 persons who have got the priority certificates improperly reveals that the said certificates were obtained with a malafide intention to get Government jobs with their planned activity which was proved beyond reasonable doubt and there was "meeting of minds".

16. Considering the facts and circumstances as well as the findings in the enquiry by the authorities competent, this Court is of the opinion that schematically a fraud had been committed for the purpose of getting employment by the petitioner along with other unemployed graduates, who have sufficient means for their livelihood.



17. In the event of allowing such fraudulent activities in the matter of public appointments, no doubt, the deserving and genuine candidates, who are longing for public employment are deprived. Equal opportunity in public employment is the constitutional mandate. All appointments are to be made strictly in accordance with the rules and regulations. Priority for public employment on the ground of land acquisition itself is a concession. In the event of abuse of such concession by way of fraudulent means, then the opportunity for the rightful eligible persons are denied and thus, such fraudulent and illegal activities, if found in public appointments, serious actions are undoubtedly warranted. In the event of providing such a concession on the basis of land acquisition to a larger extent and many number of such people are appointed on the basis of the priority certificate, this Court is of the considered opinion that the rule of reservation will also be affected and the meritorious candidates are also deprived of their opportunity to secure public employment. At the outset, such backdoor appointments can never be approved by the Courts. The authorities are expected to be vigilant and in the present case, actions were taken swiftly and an enquiry was conducted and based on the enquiry report, the authorities found that some few unemployed graduates joined together and schematically executed a sale deed after initiation of acquisition proceedings and thereafter, obtained Priority Certificate for securing employment. When these factors were raised by way of complaint by other unemployed graduates and public, further enquiry was conducted and an opportunity was provided to the petitioner, who in turn, availed the said opportunity and thereafter, a decision is taken and an elaborate order has been passed, which is in consonance with the provisions of the Statute and Rules.

18. Thus, this Court do not find any infirmity or perversity in respect of the order impugned. Consequently, the writ petition is devoid of merits and stands dismissed. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Namakkal, Namakkal District.



2. The District Employment Exchange Officer,
Namakkal, Namakkal District.

+1cc to M/s.C.S.Associates, Advocate, S.R.No.62903

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+1cc to the Government Pleader, S.R.No.63464

W.P.No.22586 of 2011

RGN(CO)

RLP(14/12/2021)