



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.08.2021

Coram

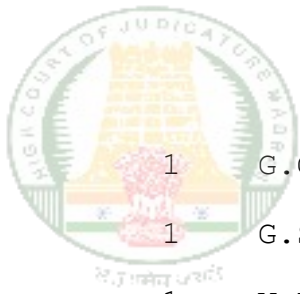
WEB COPY

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

Writ Petition Nos. 3253, 3327, 13302, 13303, 13304, 13305,
16750, 20445, 20446, 21036, 24422, 33236 of 2018

Writ Petition Nos. 272, 343, 830, 835, 5679, 5680, 5684, 6325,
6773, 6777, 22084 and 32157 of 2019

1	N. SELVAM	... PETITIONER in WP No.3253 of 2018
1	TMT. TAMILSELVI	... PETITIONER in WP No.3327 of 2018
1	TMT.MOGAMBARI	... PETITIONER in WP No.13302 of 2018
1	MANNATHAN	... PETITIONER in WP No.13303 of 2018
1	TMT.KARUPPAYEE	... PETITIONER in WP No.13304 of 2018
1	LOGANATHAN	... PETITIONER in WP No.13305 of 2018
1	TMT.ANDAL	... PETITIONER in WP No.16750 of 2018
1	P.RAMAMOORTHY	... PETITIONER in WP No.20445 of 2018
1	TMT.PADMAVATHY	... PETITIONER in WP No.20446 of 2018
1	AMUDHA	... PETITIONER in WP No.21036 of 2018
1	TMT. POONGOTHAI	... PETITIONER in WP No.24422 of 2018
1	R.KANNADHASAN	... PETITIONER in WP No.33236 of 2018
1	R.MURALIDHARAN	... PETITIONER in WP No.272 of 2019
1	A.VENKATASAMY	... PETITIONER in WP No.343 of 2019
1	G.KALIYAMOORTHY	... PETITIONER in WP No.830 of 2019
1	D.RAMAMOORTHY	... PETITIONER in WP No.835 of 2019
1	P.VAIITHIYANATHAN	... PETITIONER in WP No.5679 of 2019
1	P.GOVINDAN	... PETITIONER in WP No.5680 of 2019



WEB COPY

- 1 G.GOPALAKRISHNAN ... PETITIONER in WP No.5684 of 2019
- 1 G.SAKTHIKUMAR ... PETITIONER in WP No.6325 of 2019
- 1 V.KRISHNAMOORTHY ... PETITIONER in WP No.6773 of 2019
- 1 KANTHIMATHI ... PETITIONER in WP No.6777 of 2019
- 1 N.SUTHA ... PETITIONER in WP No.22084 of 2019
- 1 VEERAMMAL ... PETITIONER in WP No.32157 of 2019

Vs.

- 1 UNION OF INDIA BY CHIEF
SECRETARY TO GOVERNMENT
GOVERNMENT OF PUDUCHERRY
PUDUCHERRY
- 2 SECRETARY TO GOVERNMENT
(WELFARE) GOVERNMENT OF PUDUCHERRY
PUDUCHERRY
- 3 DIRECTOR
ADI-DRAVIDER WELFARE DEPARTMENT GOVERNMENT
OF PUDUCHERRY PUDUCHERRY
- 4 JOINT DIRECTOR (SURVEY WING)
ADI-DRAVIDER WELFARE DEPARTMENT GOVERNMENT
OF PUDUCHERRY PUDUCHERRY
- 5 THE DEPUTY DIRECTOR (GENERAL)
ADI-DRAVIDER WELFARE DEPARTMENT PUDUCHERRY
- 6 WELFARE INSPECTOR
EMBALAM ASSEMBLY CONSTITUENCY PUDUCHERRY
- 7 TAHSILDAR
TALUK OFFICE BAHOUR PUDUCHERRY
...RESPONDENTS in WP No.3253 of 2018,
W.P. No. 3327, 13302, 13303,13304,
13305, 16750, 20445, 20446, 21036,
24422/2018.
- 1 THE DIRECTOR
ADHI DRAVIDAR WELFARE DEPARTMENT
PUDUCHERRY
PUDUCHERRY STATE ... RESPONDENT in WP No.33236 of 2018



WEB COPY

- 1 THE DIRECTOR
ADHI DRAVIDAR WELFARE DEPARTMENT
PUDUCHERRY
PUDUCHERRY STATE ... RESPONDENT in WP No.272 of 2019
- 1 THE DIRECTOR
ADHI DRAVIDAR WELFARE DEPARTMENT
PUDUCHERRY
PUDUCHERRY STATE ... RESPONDENT in WP No.343 of 2019
- 1 THE DIRECTOR
ADHI DRAVIDAR WELFARE DEPARTMENT
PUDUCHERRY
PUDUCHERRY STATE ... RESPONDENT in WP No.830 of 2019
- 1 THE DIRECTOR
ADHI DRAVIDAR WELFARE DEPARTMENT
PUDUCHERRY
PUDUCHERRY STATE ... RESPONDENT in WP No.835 of 2019
- 1 THE DIRECTOR
ADI DRAVIDA WELFARE DEPARTMENT
PUDUCHERRY ... RESPONDENT in WP No.5679 of 2019
- 1 THE DIRECTOR
ADI DRAVIDA WELFARE DEPARTMENT
PUDUCHERRY ... RESPONDENT in WP No.5680 of 2019
- 1 THE DIRECTOR
ADI DRAVIDA WELFARE DEPARTMENT
PUDUCHERRY ... RESPONDENT in WP No.5684 of 2019
- 1 THE DIRECTOR
ADI DRAVIDAR WELFARE DEPARTMENT
PUDUCHERRY. ... RESPONDENT in WP No.6325 of 2019
- 1 UNION OF INDIA
CHIEF SECRETARY TO GOVERNMENT
GOVERNMENT OF PUDUCHERRY
PUDUCHERRY - 605001
- 2 SECRETARY TO GOVERNMENT (WELFARE)
GOVERNMENT OF PUDUCHERRY
PUDUCHERRY - 605001
- 3 DIRECTOR
ADI DRAVIDAR WELFARE DEPARTMENT GOVERNMENT
OF PUDUCHERRY PUDUCHERRY - 605009



4 JOINT DIRECTOR (SURVEY WING)
ADI DRAVIDAR WELFARE DEPARTMENT
GOVERNMENT OF PUDUCHERRY
PUDUCHERRY - 605009

WEB COPY

5 THE DEPUTY DIRECTOR (GENERAL)
ADI DRAVIDAR WELFARE DEPARTMENT
PUDUCHERRY - 605009

... RESPONDENT in WP No.6773 of 2019

1 UNION OF INDIA
CHIEF SECRETARY TO GOVERNMENT
GOVERNMENT OF PUDUCHERRY
PUDUCHERRY - 605001

2 SECRETARY TO GOVERNMENT (WELFARE)
GOVERNMENT OF PUDUCHERRY
PUDUCHERRY - 605001

3 DIRECTOR
ADI DRAVIDAR WELFARE DEPARTMENT
GOVERNMENT OF PUDUCHERRY PUDUCHERRY - 605009

4 JOINT DIRECTOR (SURVEY WING)
ADI DRAVIDAR WELFARE DEPARTMENT
GOVERNMENT OF PUDUCHERRY PUDUCHERRY - 605009

5 THE DEPUTY DIRECTOR (GENERAL)
ADI DRAVIDAR WELFARE DEPARTMENT
PUDUCHERRY - 605009 ... RESPONDENT in WP No.6777 of 2019

1 THE DIRECTOR
ADI DRAVIDAR WELFARE DEPARTMENT
PUDUCHERRY
PUDUCHERRY STATE ... RESPONDENT in WP No.22084 of 2019

1 THE DIRECTOR
ADI DRAVIDAR WELFARE DEPARTMENT
PUDUCHERRY ... RESPONDENT in WP No.32157 of 2019

Writ Petitions filed under Article 226 of the Constitution of India, praying a Writ of Certiorari after,

WP No.3253 of 2018
calling for the concerned records relating to the order dated 05.01.2018 made in No.3282/AWD/G3/ 2017-18 passed by the 3rd respondent in so far as the petitioner is concerned and quash the same



WP No.3327 of 2018
calling for the concerned records relating to the order dated 05.01.2018 made in NO.3282/AWD/G3/2017-18 / passed by the 3rd respondent in so far as the petitioner is concerned and quash the same

WP No.13302 of 2018
Calling for the concerned records relating to the Order dated 2.1.2018 made in No. 15392/AWD/G3/2017-18/24 passed by the 3rd Respondent in so far as the Petitioner is concerned and quash the same

WP No.13303 of 2018
Calling for the concerned records relating to the Order dated 2.1.2018 made in No. 15392/AWD/G3/2017-18/24 passed by the 3rd Respondent in so far as the Petitioner is concerned and quash the same

WP No.13304 of 2018
Calling for the concerned records relating to the Order dated 2.1.2018 made in No. 15392/AWD/ G3/2017-18/24 passed by the 3rd Respondent in so far as the Petitioner is concerned and quash the same.

WP No.13305 of 2018
Calling for the concerned records relating to the Order dated 05.01.2018 made in No. 3282/AWD/ G3/2017-18 passed by the 3rd Respondent in so far as the Petitioner is concerned and quash the same

WP No.16750 of 2018
calling for the concerned records relating to the order dated 10.04.2018 made in No.4885 / AWD / G3 / 2017-18 / 651 passed by the 3rd respondent in so far as the petitioner is concerned and quash the same.

WP No.20445 of 2018
Calling for the concerned records relating to the order dated 10.04.2018 made in No.4885/AWD/ G3/2017-18/651 passed by the third respondent in so far as the petitioner is concerned and quash the same.

WP No.20446 of 2018
Calling for the concerned records relating to the order dated 10.04.2018 made in No.4885/ AWD/ G3/2017-18/651 passed by the third respondent in so far as the petitioner is concerned and quash the same.



WP No.21036 of 2018
calling for the concerned records relating to the order dated 02.01.2018 made in No.15392/AWD/G3/2017-18/24 passed by the 3rd respondent in so far as the petitioner is concerned and quash the same.

WP No.24422 of 2018
Pleaded to issue appropriate Writs, order or direction and in particular issue a Writ of Certiorari after calling for the concerned records relating to the order dated 10.04.2018 made in No. 4885/AWD/G3/2017-2018/651 passed by the 3rd Respondent in so far as the Petitioner is concerned and quash the same.

WP No.33236 of 2018
to call for the records order No.3274/ AWD/ G3/2018-19/ 1730 dated 9.11.2018 passed by the respondent herein and quash the same as illegal and Directing the Respondent not to dispossess from the petitioner house site No.11, Group house quarters, kudieruppupalayam, seliyamedu post, puducherry state to secure ends of justice.

WP No.272 of 2019
To call for the records order No. 3274/AWD/G3/2018-19/1730 dated 9-11-2018 passed by the Respondent not to dispossess from the petitioner house site NO 13 Group housequarters Kudieruppupalayam seliyamedu post Puducherry state to secureends of justice.

WP No.343 of 2019
To call for the records order no 3274/AWD/G3/2018-19/1730 dated 9-11-2018 passed by the respondent herein and quash the same as illegal and directing the respondent not to dispossess from the petitioner house site no 51 Group house quarters Kudireruppuplayam seliyamedi post puducherry state to secureends of justice.

WP No.830 of 2019
To call for the records order No 3274/AWD/G3/2018-19/1730 dated 9-11-2018 passed by the respondent herein and quash the same as illegal and directing the respondent not to dispossess from the petitioner house site no 49 group house quarters kudieruppupalayam seliyambedu post puducherry state to secure ends of justice.

WP No.835 of 2019
To call for the records order No 3274/AWD/G3/2018-19/1730 dated 9-11-2018 passed by the respondent herein and quash the same as illegal and directing the respondent not to dispossess from the petitioner house site no 12 group house quarters



kudieruppupalayam seliyambedu post puducherry state to secure ends of justice.

WP No.5679 of 2019

To quash the order dated 29.1.2019 bearing Ref. No. 2525/ AWD/ G3/ Korkadu/ 2018-19/ 2199 direct the respondent herein to restore a possession of the assigned dwelling unit No. 47 as per the assigned order dated 29.1.2019 back to the petitioner.

WP No.5680 of 2019

To quash the order dated 29.1.2019 bearing Ref. No. 2525/ AWD/ G3/ Korkadu/ 2018-19/ 2199 direct the respondent herein to restore a possession of the assigned dwelling unit No. 23 as per the assigned order dated 29.1.2019 back to the petitioner.

WP No.5684 of 2019

To quash the order dated 29.1.2019 bearing Ref. No. 2525/ AWD/ G3/ Korkadu/ 2018-19/ 2199 direct the respondent herein to restore a possession of the assigned dwelling unit No. 24 as per the assigned order dated 29.1.2019 back to the petitioner.

WP No.6325 of 2019

Calling for the records of the respondent to quash the order dated 29.01.2019 bearing Ref.No.2525/AWD/G3/Korkadu/2018-19/2199 and direct the respondent herein to restore a possession of the assigned dwelling unit No.37 as per the assigned order dated 29.01.2019 back to the petitioner.

WP No.6773 of 2019

Calling for the concerned records relating to the order dated 21.01.2019 made in No. 3283/ AWD/ G3/ 2018-19/ 2151 passed by the 3rd respondent in so far as the petitioner is concerned and quash the same.

WP No.6777 of 2019

Calling for the concerned records relating to the order dated 29.01.2019 made in No. 2525/ AWD/ G3 Korkadu/ 2018-19/ 2199 passed by the 3rd respondent in so far as the petitioner is concerned and quash the same.

WP No.22084 of 2019

To call for the records impugned order in No. 2525/ AWD/ G3/ Korkadu/ 2018-2019/ 2199 dated 29.01.2019 on the file of respondent herein and quash the same as illegal and directing the respondent not to dispossess from the petitioner dwelling house No. 58, Group house quarters at Korkadupet, Puduchery State, to secure ends of justice.



WP No.32157 of 2019
to quash the order dated 29.01.2019 bearing Ref. No. 2525/ AWD /
G3/Korkadu /2018-19/2199 direct the Respondent herein to restore
possession of the assigned dwelling unit No. 31 as per the
assigned order dated 29.01.2019 back to the Petitioner.

WP No. 3253 of 2018, 3327, 13302, 13303, 13304, 13305, 16750,
20445, 20446, 21036 and 24422/2018 and W.P. Nos. 6773 &
6777/2019:

For Petitioner : Mr. Gnanasekaran
assisted by Ms. Kalaiyarasi

W.P. Nos. 33236/2018 and W.P. Nos. 272, 343, 830, 835,
22084/2019:

For Petitioner: Mr.R. Sankarasubbu

W.P. Nos. 5679, 5680 & 5684/2019:

For Petitioner: Ms.J. Divya

W.P.Nos. 6325 and 32157/2019:

For Petitioner: Mr.R. Udhayakumar

Writ Petition Nos. 3253, 3327, 13302, 13303, 13304, 13305,
16750, 20445, 20446, 21036, 24422, 33236 of 2018 &
Writ Petition Nos. 272, 343, 830, 835, 5679, 5680, 5684, 6325,
6773, 6777, 22084 and 32157 of 2019:

For Respondent : Mr. J. Kumaran,
Government Advocate (Puducherry)

COMMON ORDER

In all these writ petitions, the petitioners have called in question the validity and or correctness of the order passed by the third respondent, cancelling the assignment order issued in favour of the petitioners, with a direction to restore possession of the assigned land to the Government.

2. The petitioners are the beneficiaries of the scheme framed by the Government of Puducherry to issue free house site patta to the poor landless Schedule Caste People in the Union Territory. As per the scheme, applications were called for from eligible applicants, including the petitioners herein and they were subjected to scrutiny by the sixth respondent and certified that the petitioners are eligible for issuing free house site patta. Thereafter, possession of the dwelling unit was handed over to the petitioners on various dates in the year 2015. While so, the first respondent issued a notice dated 30.08.2017



to the petitioner in WP No. 3253 of 2018 calling for an explanation as to why the grant of house site should not be cancelled for violation of the conditions of assignment. Similar notice was issued to the other petitioners as well. Repudiating the statement contained in the notice dated 30.08.2017, the petitioner in WP No. 3253 of 2018 submitted a representation denying that he has not committed any violation of the conditions of assignment. Similarly, the other petitioners also individually submitted their explanation denying the breach of conditions of assignment. However, it is claimed by the petitioners that without considering the explanations submitted by the petitioners, the third respondent passed the order dated 05.01.2018 in WP No. 3253 of 2018, cancelling the order of assignment issued to the petitioner.

3. The learned counsel appearing for the respective petitioners, in unison, would contend that for the show cause notices issued to the petitioners, they have submitted detailed explanations denying the averments made therein. However, without considering the explanations so made, the third respondent has passed the impugned orders of cancellation. It is also contended that before passing the orders of cancellation, the third respondent did not afford an opportunity of hearing to the petitioners seeking to furnish the documents in support of their claim. Further, the explanations submitted by the petitioners have not been referred to in the impugned orders of cancellation, cancelling the assignment made in favour of the petitioner. The impugned order has been passed stereotyped without application of mind. Therefore, it is submitted that the impugned orders are passed in gross violation of principles of natural justice and on that ground, the learned counsel for the petitioners prayed this Court to quash the same.

4. Per contra, the learned Government Advocate appearing for the respondents, by placing reliance on the common counter affidavit filed by the third respondent, would contend that the Adi Dravidar Welfare and Scheduled Tribes Welfare Department proposed to allot free house site/free house under the scheme "The Puducherry House Sites/ Houses Allotment (under the scheme of provision of House-sites/houses to scheduled castes) Rules, 1981, which was notified by the Government of Puducherry vide G.O. Ms. No.45/81-HEW (HW) dated 13.03.1981. As per the scheme, residential plots, either acquired by the Government or houses constructed by the Government will be allotted free of cost for housing purpose to citizens of Puducherry, who is a scheduled caste and who is homeless. Accordingly, beneficiaries under the scheme were identified and they were issued order of assignment subject to certain conditions. One of the conditions is stipulated under Rule 11, which reads as follows:-



WEB COPY

"11. Cancellation of assignment and right of re-entry:-

(1) Any assignment made under these Rules shall be revoked and the site, house, etc., resumed by the Department for welfare of Scheduled Castes if it has been obtained by making false or fraudulent representation, or in the case of house-site where the allottee fails to construct the house with the stipulated time according to undertaking given as per rules 8 (i) (A) (ii) or if the plot/house is misused by the allottee.

Provided that no such revocation shall be made without giving the allottee an opportunity of being heard.

Provided further that in the event of assignment the beneficiary shall not be entitled to compensation for any improvement that he might have made in the site/house."

5. According to the learned Government Advocate (Puducherry), after issuance of orders of assignments, complaints were received by the respondents that the free house sites were allotted to ineligible persons. Therefore, to verify the genuineness of such complaints, a five member committee was constituted consisting of Deputy Director (General), Deputy Director (Planning, Deputy Tahsildar, Deputy Surveyor and Welfare Officer. On verification of the records and field visit by the committee, it was found that the petitioners have obtained the assignment by misrepresentation. According to the petitioners, the committee found that some of the petitioner or his/her spouse have already is in possession of his/her own house/land for which patta was obtained. In some cases, the petitioner or his/her spouse is employed in Government Department or Departments of Government Undertaking. In some other case, the assigned residential house was sub-let to third parties and the petitioner is collecting huge rent, while the petitioner resides elsewhere. Therefore, having noticed such violation of the conditions of the assignment, the third respondent proposed to cancel the order of assignment. Accordingly, show cause notices were issued to the petitioners in adherence to principles of natural justice. After receipt of explanation, the third respondent considered the same and passed the order of cancellation, cancelling the assignment order issued to the petitioners. According to the learned Government Advocate, the orders, which are impugned in these writ petitions, have been issued in exercise of the powers conferred under Clause 11 of the Scheme of assignment for breach of violation of the conditions of assignments. Therefore, the learned Government Advocate would contend that the said orders are passed in compliance with the established procedures



contemplated under law and he prayed for dismissal of the writ petitions.

6. Heard the learned counsel appearing for the respective petitioners and the learned Government Advocate (Puducherry) appearing for the respondents.

7. It is seen from the records that the orders of allotment made in favour of the petitioners came to be cancelled on various grounds such as (i) the petitioners have suppressed the material particulars relating to their employment, source of livelihood etc., (ii) the petitioners or their family members such as father, mother, sister or brother already own house site or housing plots in their name and therefore, the petitioner is not entitled for free house site allotment as per the scheme (iii) the housing units allotted to the petitioners are occupied by some third parties and most of the petitioners are not in possession of the houses allotted to them (iv) the petitioner or his/her spouse is working in various Departments of the Government or Government Undertakings, while so, such petitioner is not entitled for assignment of free house site. The third respondent, having noticed such violations, issued a show cause notice to the petitioners and called upon them to submit their explanation as to why the orders of assignment issued to them be not cancelled.

8. To the show cause notices issued by the third respondent, the petitioners have submitted their explanation repudiating the various allegations levelled against them. The petitioners have specifically denied having committed any breach of the conditions of assignment. However, the third respondent, without considering such objections or affording an opportunity of hearing to the petitioners, have passed the impugned orders of cancellation, cancelling the allotment made in their favour.

9. This Court has perused the orders, which are impugned in this writ petition and found that they are stereo-typed orders without any application of mind. Further, the third respondent received the explanations submitted by the petitioners. However, in many of the orders of cancellation, the explanations offered by the petitioners have not even referred to. Thus, it is evident that the third respondent has not considered the explanations offered by the petitioners denying the allegations raised by the third respondent in the show cause notices. The third respondent has merely issued the show cause notices and received the explanations from the petitioners to make it as if the principles of natural justice has been adhered to. However, in the absence of consideration of the explanations submitted by the petitioners to the show cause notice, the orders, which are impugned in these writ



petitions, cannot be legally sustained. It is no doubt true that the third respondent is empowered to cancel the orders of assignment in case of any violation as per Rule 11 of the orders of assignment and it cannot be ignored.

WEB COPY

10. In such view of the matter, the orders of cancellation passed by the third respondent, which are impugned in these writ petitions, are set aside and the writ petitions are disposed of with the following directions:-

(i) The petitioners are directed to submit documentary evidence to the third respondent in support of their defence that they have not contravened any of the conditions of assignment issued in their favour along with a fresh explanation to the show cause notices issued to them on or before 6th September 2021 with due acknowledgment from the third respondent

(ii) The petitioners are thereafter directed to appear before the third respondent on 9th September 2021 between 10.00 am to 5.30 pm and on such appearance, the third respondent shall hear the petitioners, consider their explanation as also the documentary evidence in support of their defence.

(iii) The third respondent shall, thereafter, pass an order on merits and in accordance with law, within a period of two weeks thereafter, preferably before 23rd September 2021.

(iv) No costs. Consequently, connected miscellaneous petitions are closed.

s/d-

Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To

1. The Chief Secretary to Government
Union of India
Government of Puducherry
Puducherry

2. Secretary to Government (Welfare)
Government of Puducherry
Puducherry

3. Director
Adi Dravidar Welfare Department
Government of Puducherry
Puducherry



WEB COPY

4. Joint Director (Survey Wing)
Adi Dravidar Welfare Department
Government of Puducherry
Puducherry

5. The Deputy Director (General)
Adi Dravidar Welfare Department
Puducherry

6. Welfare Inspector
Embalam Assembly Constituency
Puducherry

7. Tahsildar
Taluk Office
Bahour, Puducherry

+9 Ccs to Mr. Gnanasekaran, Advocate Sr Nos. 39699, 39688,
39687, 39686, 39701, 39700, 39814, 39817, 39815

+1 CC to Mr.R. Sankarasubbu, Advocate sr 39820.

WP Nos. 3253 of 2018 etc., batch

JP II (CO)
SP(03/09/2021)