

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.12.2021

C O R A M

THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.11125 of 2018  
and  
W.M.P.No.13027 of 2018

Mayavan

...Petitioner

Vs

1. The Chief Secretary,  
Government of Puducherry,  
Puducherry State.
2. The Director,  
Adhi Dravidar Welfare Department,  
Puducherry,  
Puducherry State.

...Respondents

Prayer:

Writ Petition filed under Section 226 of the Constitution of India, prayed for the issuance of Writ of Mandamus, directing the respondents to consider the representation of the petitioner dated 09.04.2018 in accordance with law and direct the respondents to permit the petitioner to live peacefully in his free house allotted by the respondents on 01.06.2015 House Site No.71 at Adingapet, Seliyamedu Post, Puducherry State to secure the ends of justice.

For Petitioner : Mr.R.Sankarasubbu

For Respondents : Mr.G.Djearany  
Government Advocate (Puducherry)

## ORDER

This Writ Petition has been filed, for the issuance of Writ of Mandamus, directing the respondents to consider the representation of the petitioner dated 09.04.2018 in accordance with law and direct the respondents to permit the petitioner to live peacefully in his free house allotted by the respondents on 01.06.2015 House Site No.71 at Adingapet, Seliyamedu Post, Puducherry State to secure the ends of justice.

2. According to the petitioner, a house site was allotted to him during June, 2015, by the Adhi Dravidar Welfare Department, the second respondent herein and the petitioner was in possession of the house site since 01.06.2015. However, all of the sudden, the second respondent issued a show cause notice dated 28.06.2017, to the petitioner stating that the petitioner is not eligible for the allotment of house as per the Rules and Regulations, therefore, the same was cancelled. The petitioner raised his objection through his representation dated 09.04.2018. However, the same was not considered by the second respondent. Hence, the present Writ Petition has been filed.

3. In a similar set of facts, this Court passed the following order in W.P.No.3253 of 2018 etc., batch.

"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 stereotyped 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.

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."

**\*3(a) The petitioner shall file a fresh explanation to the show cause notice issued by the second respondent on or before 10.02.2022 and the petitioner is thereafter directed to appear before the second respondent on 24.02.2022 or such other date as may be fixed by the second respondent, between 10.00 am to 05.30 pm. On such appearance, the second respondent shall hear the petitioner, consider his explanation and also the documentary evidence in support of his defence and shall pass orders on merits in accordance with law within a period of three weeks, thereafter.**

4.In view of the above, this Writ Petition is disposed of on the same line as the order passed by this Court as referred above. No Costs. Connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar(CS-VI)  
28.12.2021

**\*Paragraph No.3(a) is inserted  
to the order dated 13.12.2021 as  
per order of this Court dated  
21.01.2022**

Sd/-

**Assistant Registrar(CS-VI)  
09.02.2022**

//True Copy//

Sub Assistant Registrar

rst

To

1. The Chief Secretary,  
Government of Puducherry,  
Puducherry State.
2. The Director,  
Adhi Dravidar Welfare Department,  
Puducherry, Puducherry State.

**Corrected order to be  
substituted to the order  
already despatched on  
20.01.2022**

+1cc to M/s.R.Sankarasubbu, Advocate, S.R.No.65958

+1cc to the Government Pleader, (Puducherry) S.R.No.\*3899

W.P.No.11125 of 2018  
and W.M.P.No.13027 of 2018

AD(CO)  
RGA(29/12/2021)  
PM/09/02/2022