



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 23.03.2021
CORAM

THE HONOURABLE MR.JUSTICE **V. PARTHIBAN**

WEB COPY

W.P. (MD)No.6422 of 2021
and
W.M.P. (MD)Nos.5027 and 5029 of 2021

I.Parimala Devi : Petitioner

Vs.

- 1.State of Tamil Nadu,
represented by its Principal Secretary to the Government,
Housing and Urban Development,
Fort St.George, Chennai - 600 009.
- 2.Tamil Nadu Housing Board,
represented by its Managing Director,
Nandanam, Chennai-600 035.
- 3.The Executive Engineer & Administrative Officer,
Madurai Housing Unit,
Tamil Nadu Housing Board, Madurai - 625 016. : Respondents

PRAYER:- Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Letter No.A3/H2-62/2004 dated 23.10.2020 on the file of the respondent No.3 and quash the same as illegal and consequently for a direction, to direct the respondent Nos.1 and 2 to allot the Plot in Plot No.H2/62 situated at Ranimangammal Colony, Dindigul, Dindigul District to the petitioner in accordance with the order passed by this Court in W.P (MD)No.9085 of 2006 dated 02.06.2007 within the time period stipulated by this Court.

For Petitioner:Mr.T.Lajapathy Roy
For R1 :Mr.R.Murugan
Additional Government Pleader
For R2 and R3 :Mr.Mahaboob Athiff

ORDER

The case of the petitioner is that she was allotted a plot in Plot No.H2/62 at Ranimangammal Colony, Dindigul District under the discretionary quota reserved by the Government. The plot was allotted against a social worker category, by proceedings, dated 21.06.2004. After issuance of the allotment order, subsequently, the Government by proceedings, dated 14.08.2006, cancelled the said



allotment.

2.The petitioner along with other allottees, whose allotment had also been cancelled, approached this Court challenging the order of cancellation in W.P.(MD)No.9085 of 2006 and batch. On 02.06.2007, when the batch Writ Petitions came up for for hearing, this Court found that the principles of natural justice have been violated, while cancelling the allotment and allowed all the Writ Petitions by setting aside the orders of cancellation. A detailed direction has been given by this Court, which is extracted hereunder:

"3.It is seen from all impugned orders in this batch of writ petitions that the primary ground on which the allotments were cancelled is that the allotments were made in excess of the discretionary quota.

4.Mr.A.Kannan, learned Counsel appearing for the Tamil Nadu Housing Board submitted that the original orders of allotment made it clear that the allotments were subject to various rules and regulations and that if any allotment was made in violation of the rules and regulations, it was liable to be cancelled. Therefore, it is his contention that the cancellation was in accordance with the terms of the allotment and that the same cannot be questioned.

5.But unfortunately for the respondents, the allotments made allegedly in violation of the rules and regulations in these cases was their own making. The writ petitioners were not guilty of any violation of the rules and regulations. If the writ petitioners were allotted house sites or commercial plots in excess of the discretionary quota available to the Government, it is actually the fault of the Government and not the fault of the writ petitioners. In other words, the violation is actually by the Government itself and not by the petitioners. Therefore, it is not open to the respondents now to point out an accusing finger against the petitioners.

6.It is not in dispute that the petitioners were not given any opportunity before the cancellation orders were passed. Therefore, following the orders of the Division Bench, the impugned orders in all these writ petitions are set aside, and the writ petitions are allowed. Consequently, connected miscellaneous petitions are closed. No costs."

3.According to the petitioner that except her, all other allottees, who were the petitioners in the earlier batch of Writ Petitions, have been allotted back their respective plots. According to the petitioner, she has represented to the authorities, as to how she was discriminated in the matter of allotment of the



plot all these years. Finally, the authorities passed the impugned order, on 23.10.2020 rejecting the petitioner's request. Challenging the same, the petitioner is before this Court.

4.Mr.T.Lajapathi Roy, learned Counsel for the petitioner reiterated the above facts and argued that non allotment of the plot to the petitioner herein amounted to hostile discrimination and violative of Article 14 of the Constitution of India, when other persons, who had been identically placed, had been re-allotted the plots after this Court intervened in earlier batch of Writ Petitions in 2007. Therefore, there was no justification by the third respondent to deny the same benefit to the petitioner herein. Therefore, he would submit that the petitioner herein ought to be treated equally and fairly.

5.This Court perused the impugned order passed by the third respondent and also the pleadings and materials placed on record.

6.The third respondent has passed the impugned order rejecting the the claim of the petitioner on more than one ground.

6.1.Firstly, the representation of the petitioner, which was made on 01.10.2019, was preferred after a period of 12 long years from the date of this Court setting aside the order earlier cancelling the allotment in 2009. There is absolutely no explanation even in the affidavit filed before this Court, as to why the petitioner has taken twelve years to submit her representation and noting has been specifically stated covering the long period of twelve years. Therefore, the authorities have rightly rejected the representation on that account.

6.2.Secondly, the authorities have also reasoned that subsequently a decision of this Court held that granting of allotment under the discretionary quota was violative of Article 14 of the Constitution of India. The authorities have also relied on the decision of this Court in W.P.No.10780 of 2008 and the Government, in pursuance of the law laid down by this Court in W.P.No.10780 of 2008, had issued G.O.Ms.No.6, Housing and Urban Development Department, dated 07.01.2011, that no allotment would be made under any quota.

6.3.Thirdly, the allotments made under the discretionary quota were also set aside by this Court in subsequent decisions. Therefore, the request of the petitioner in the present circumstances of the case cannot be considered in her favour.

7.The above reasons set out in the impugned order by the third respondent do not suffer from any infirmity at all for this Court to intervene in the matter. All the three reasons, which do form part of the impugned order, are perfectly valid and this Court is also



convinced that the Writ Petition is not only to be dismissed for laches, but also for on merits in view of the subsequent developments, as explained by the authorities in the impugned order.

8. For the aforesaid reasons, this Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

cmr

To

1. The Principal Secretary to the Government,
State of Tamil Nadu,
Housing and Urban Development,
Fort St. George, Chennai - 600 009.

2. The Managing Director,
Tamil Nadu Housing Board,
Nandanam, Chennai-600 035.

3. The Executive Engineer & Administrative Officer,
Madurai Housing Unit,
Tamil Nadu Housing Board, Madurai - 625 016.

+1 CC to M/s.SPL GP (SR-13327[F] dated 24/03/2021)

+1 CC to M/s.T.LAJAPATHI ROY(SR-2454[I] dated 24/03/2021)

W.P. (MD)No.6422 of 2021
23.03.2021

RK (27.04.2021) 4P 6C