



W.P.Nos.22791, 22628, 22629, 22792, 22793 and 22794 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.06.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**W.P.Nos.22791, 22628, 22629, 22792,
22793 and 22794 of 2011**

Tajun Bi
Rep. by her Power of Attorney Agent
A.K.Moosa ... Petitioner in W.P.22791/2011

Vs.

- 1.The State of Tamilnadu
Rep. by Secretary to Government,
Adi Dravidar Welfare Department,
Fort St.George,
Secretariat,
Chennai 600 009.
- 2.The District Collector,
Cuddalore District,
Cuddalore.
- 3.The Special Tahsildar (Adi Dravidar Welfare),
Cuddalore District,
Cuddalore. ... Respondents in W.P.22791/2011

Prayer in W.P.No.22791 of 2011:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records relating to the Notification vide Ref.W2/85731/2006 dated 19.08.2010 of the second



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respondent herein issued under Section 4 (1) of the Tamilnadu Acquisition of Land for Harijan Welfare Scheme Act, 1978 published in the Cuddalore District Gazette on 28.09.2010 and the notice dated 20.07.2011 of the third respondent herein under Ref. No.A.27/2008 with regard to the land of an extent of 1,800 sq.ft. and 1,650 sq.ft. (totaling to 3,450 sq.ft.) bearing Plot Nos.55 and 56 respectively in Thiru-vi-Ka Nagar, comprised in Survey No.334/8A in Vazhuthalampattu Village, Kullanchavadi, Cuddalore District in Document No.1599, 1600/2008 and quash the same.

For Petitioners : Ms.S.Meenakshi
for M/s.AL.Ganthimathi

For Respondents : Mr.R.Neelakandan
Additional Advocate General
Assisted by
Mr.P.Sathish
Additional Government Pleader

COMMON ORDER

Since the issue involved in these writ petitions are one and the same, they are heard together and disposed of by way of a common order.



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2.The petitioners have filed these writ petitions seeking issuance of Writ of Certiorari calling for the records relating to the Notification vide Ref.W2/85731/2006 dated 19.08.2010 of the second respondent issued under Section 4 (1) of the Tamilnadu Acquisition of Land for Harijan Welfare Scheme Act, 1978, published in the Cuddalore District Gazette on 28.09.2010 and the notice dated 20.07.2011 of the third respondent under Ref. No.A.27/2008 with regard to their lands in Vazhuthalampattu Village, Kullanchavadi, Cuddalore District and to quash the same.

3.The case of the petitioners is that the petitioners are the owners of the respective subject properties. The third respondent proposed to acquire their lands for the purpose of providing house sites to the Adi Dravidars and issued notice under Rule 3(1) of the Tamilnadu Acquisition of Land for Harijan Welfare Scheme Act, 1978 on 08.04.2008. Thereafter, the second respondent issued Notification dated 19.08.2010 under Section 4 (1) of the Tamilnadu Acquisition of Land for Harijan Welfare Scheme Act, 1978 and the same was published in the Cuddalore District Gazette on 28.09.2010. Thereafter, the petitioners were issued with notice dated 20.07.2011



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calling upon them to appear before the third respondent and to submit their objections. Aggrieved by the same, the petitioners have filed these writ petitions.

4.The learned counsel appearing for the petitioners submitted that though the petitioners did not appear before the third respondent, they submitted their objections before the Land Acquisition Officer, however, the Land Acquisition Officer did not properly consider the objections of the petitioners and mechanically over ruled their objections, which is non est in law.

5.In support of his contentions, the learned counsel relied upon the decision of the Full Bench of this Court reported in **(2006) 4 CTC 609 (R.Pari Vs. The Special Tahsildar, Adi Dravidar Welfare, Divakottai (Pasumpon Muthuramalinga Thevar District) and another)**, the relevant portion of which, reads as follows:

"42.However, it is necessary to enter a small caveat. The observation made by the Division bench or the judge regarding requirement to indicate reason while passing the order has to be understood in the context of non-application of mind. Even though in a



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given case the order which is communicated to the land owner does not indicate any reason why the objection has been rejected, if the application of mind is reflected in the file even by way of nothings and endorsements, the ultimate decision to acquire the land cannot be said to be vitiated merely because the order which is communicated to the land owner/objector does not contain any detailed reasons. The requirement is that the materials on record, that is to say the relevant file, should indicate application of mind to the relevant facts and circumstances and not passing of a formal reasoned order as is required in judicial or quasi-judicial proceedings. The function obviously being administrative in nature, it is futile to expect furnishing of detailed reasons in the order which is communicated to the person. It is necessary to enter such caveat lest it may be construed that in every case, where the order of rejection communicated to the land owner does not contain the reasons, the proceeding stands vitiated. Ultimately the court is required to find out in each case whether there has been



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application of mind. Therefore, the brief reasons, which are contemplated, can be given either in the file in the shape of nothings, endorsements, etc., or even can be reflected in the order. But, mere non-reflection of reasons in the order communicated or in the notice published in the Gazette, would not be sufficient to hold that there has been non-application of mind and the question as to whether there has been application of mind or non-application is required to be considered on the basis of the return filed and. the relevant file to be produced before the Court.

43. In view of the aforesaid discussion, our conclusions are as follows:

The owner should be furnished with a copy of the report / recommendation of the authorised officer. Thereafter, he should be given two weeks' time to make further representation, if any, before the District Collector. It is not necessary for the District Collector to give a further personal hearing or make any further enquiry. However, mere non-furnishing of the report would not have the ipso facto



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effect of vitiating the proceedings and the question of prejudice to the land owner is required to be considered in each case depending upon the facts and circumstances. The District Collector is expected to reflect the reasons, but merely because the communication to the land owner does not contain the reasons, the decision of the Collector is not ipso facto vitiated and it would always open to the concerned authority to prove before the Court, if such action of the Collector is challenged, that there has been application of mind and the reasons are available in the relevant records relating to such acquisition. The necessity to record the reasons is applicable where the Collector himself makes the enquiry and also where the Collector takes an appropriate decision on the basis of the report/recommendation made by the authorised officer."

[Emphasis added]

6.The learned Additional Advocate General appearing for the respondents submitted that the inorder to satisfy this Court with regard to the application of mind of the District Collector, he wrote two



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letters to the District Collector, Cuddalore on 28.04.2022 and on 22.06.2022, for which, the District Collector, Cuddalore wrote a letter dated 22.06.2022 to him, wherein, it is stated that the proceeding in W2/85731/2006 was passed in file no.W2/85731/2006 which is maintained in two volumes. On receipt of the letter from the Additional Advocate General a separate person was assigned with the task of tracing the file, however, Volume 1 of the file is not found.

7.The learned Additional Advocate General appearing for the respondents produced Volume 2 of the file for perusal of this Court. This Court perused Volume 2 of the file, however, application of mind of the District Collector is not available in terms of the decision cited supra.

8.In view of the above, this Court has no hesitation to state that the application of mind of the District Collector is not demonstrated before this Court in terms of the decision of the Full Bench of this Court reported in **(2006) 4 CTC 609 (R.Pari Vs. The Special Tahsildar, Adi Dravidar Welfare, Divakottai (Pasumpon Muthuramalinga Thevar District) and another)**.



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9.The learned Additional Advocate General appearing for the respondents also submitted that till date, the land is lying vacant and no house-site was allotted to anybody.

10.These writ petitions are allowed on the ground of non application of mind of the District Collector. The impugned proceedings are hereby quashed. However, liberty is granted to the respondents to proceed with the land acquisition proceedings, if so advised afresh. No costs. Consequently, the connected miscellaneous petitions are closed.

23.06.2022

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

To

- 1.Secretary to Government,
Adi Dravidar Welfare Department,
Fort St.George,
Secretariat,
Chennai 600 009.
- 2.The District Collector,
Cuddalore District,
Cuddalore.
- 3.The Special Tahsildar (Adi Dravidar Welfare),

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Cuddalore District,
Cuddalore.

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M.DHANDAPANI,J.
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