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W.P.No.16945 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.16945 of 2018

M.Soundarrajan Petitioner

-Vs-

1.Bharat Heavy Electricals Limited
(A Government of India Undertaking)
Boiler Auxilaries Plant rep.by the
Manager-HR, (HR-RX, RMX, TDX & GAX)
Ranipet – 632 406.

2.The District Revenue Officer
Collectorate, Vellore – 632 009. Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the 1st respondent to consider the petitioner's representation dated 28.05.2017, 28.08.2017 and 05.02.2018 to provide employment to the petitioner's daughter S.Gayathri under the category of land losers and pass necessary orders within the time that may fixed by this Hon'ble Court.

For Petitioner : Mr.P.Mani

For Respondents : Mr.John Zackariah
for M/s.Fox Mandal and Associates – for R1

Mr.R.Neethiperumal,
Government Advocate – for R2



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ORDER

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The prayer sought for herein is for a Writ of Mandamus directing the 1st respondent to consider the petitioner's representation dated 28.05.2017, 28.08.2017 and 05.02.2018 to provide employment to the petitioner's daughter S.Gayathri under the category of land losers and pass necessary orders within the time that may fixed by this Court.

2. Pursuant to the Government Order in G.O.Ms.No.87 Industries Department dated 27.01.1981, a large extent of land was acquired for establishment of Bharat Heavy Electricals Limited (BHEL) at Ranipet. Several individual persons' lands since have been acquired, it seems that the Government has given some undertaking to those land owners who were otherwise called as land losers to give job to one member in each family, whose lands have been taken by way of acquisition for the establishment of BHEL.

3. Subsequently, the issue with regard to giving job to one member of each family of the land losers, had engaged this Court in a batch of writ petitions in the matter of **"S.Lakshmi Prabha (vs) Government of Tamil Nadu and Others"** in W.P.No.4113 of 1998 etc., batch, which was decided by a learned Judge of this Court by an order dated 13.05.2008 whereby and where under the



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learned Judge has formulated a Screening Committee, before whom all applications submitted on behalf of land losers' family can be scrutinised and accordingly the job opportunity can be offered to at least one member of the family of the land losers.

4. As against the said order, appeals were preferred in W.A.No.1275 of 2008 etc., batch and those appeals were disposed by the Division Bench of this Court by order dated 29.09.2010, whereby they directed to fix a cut-off date by the Screening Committee, before which whoever makes application from the land losers family shall be scrutinized and accordingly final list can be prepared for the purpose of giving job by BHEL to such land losers family.

5. The said cut-off date was 23.09.2011. Accordingly, it was fixed by the Screening Committee that whoever makes application from the land losers family, their applications were scrutinized and after scrutiny, it was finalized as 124 applications and based on such finalized applications, according to the respondent BHEL, jobs were given and the issue has been given a quietus long back.

6. In this context, it is the case of the petitioner that the petitioner belongs to one of the land losers family, who had given a representation on



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23.09.2011 by sending it through courier and thereafter given on 27.09.2011, 28.05.2017, 28.08.2017 and lastly on 05.02.2018. All these applications since have not been taken into account either by BHEL or the Screening Committee, the petitioner has moved the present writ petition.

7. Heard the learned counsel for the petitioner, who would submit that since before the cut-off date fixed by the Screening Committee, the earlier application was given by the petitioner ie., 23.09.2011, it ought to have been considered by the Screening Committee. However, they omitted to consider it and the name of the petitioner was not found in the name list of 124 candidates. Thereafter, three or four representations have been given at frequent intervals till 2018. However, none of the representations have been considered and hence the petitioner, having no other option, has filed the present writ petition seeking the indulgence of this Court.

8. However, the learned counsel for the respondents especially the first respondent BHEL has relied upon a decision of the learned single Judge dated 13.05.2008, where the learned single Judge has appointed a Screening Committee and the relevant portion of the order of the learned single Judge reads thus,



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"43. Therefore, this Court hereby orders appointment of a Screening Committee comprising of the following persons:

- 1. The District Revenue Officer (North Arcot District) – Convener*
- 2. The Revenue Divisional Officer, Ranipet.*
- 3. The Tahsildar, Wallajah – Secretary*
- 4. The Additional General Manager (HR&C), BHEL, Ranipet.*
- 5. The Deputy General Manager (Law), BHEL, Ranipet.*
- 6. The Manager (HR), BHEL, Ranipet"*

The meetings of the Screening Committee shall be convened by the District Revenue Officer and its Secretary will be the Tahsildar, Wallajah. If any difference of opinion crops up or any clarification is required, the same may be referred to the District Collector, North Arcot District for his consideration and opinion and be resolved accordingly."

9. The said order was subsequently challenged by various persons before a Division Bench of this Court. The Division Bench passed an order on 29.09.2010, where inter alia the following has been stated.

"30. The issue regarding employment under the displaced land owners category was pending since 1981. It is in the interest of both the land owners as well as BHEL to put an end to this issue at the earliest point of time. Some how or



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the other this matter has been dragged for years together. Therefore, it is high time that the entire issue be resolved by examining individual cases by the Screening Committee appointed by the learned Single Judge. While issuing the notification calling for applications from the displaced land owners, the Screening Committee should make it clear that no more applications would be received in respect of acquisition made for BHEL as per G.O.Ms.No.87 dated 27.01.1981. It should be endeavour of the Screening Committee to conclude the matter as expeditiously as possible and in any case, within a period of six months from date of receipt of a copy of this judgment. It is made clear that in case there are no immediate vacancies to accommodate these people, it would be open to the Screening committee to prepare a list of the candidates and depending upon the vacancies they could be given employment by BHEL, of course, with reference to the qualification required for the particular post.

31. Therefore, we do not find any merit in the contention raised by the appellants in Writ Appeal Nos.874 to 890 of 2008, 896 to 910 of 2008, 970 to 987 of 2008, 1276 and 1277, 1009 to 1022 of 2008, 1332 of 2008."

10. Relying upon these two decisions, the learned counsel for the first respondent would contend that, the Screening Committee has fixed a cut-off date as directed by the Division Bench as 23.09.2011 and before which, whoever made applications were summoned and final list of 125 candidates / applications



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were finalized and all those applicants were given jobs. Therefore, the issue of giving posting or appointment at BHEL to the land losers family has been given a quietus long back. Therefore, the present plea raised by the petitioner cannot be accepted or tenable and the writ petition is liable to be rejected, he contended.

11. Heard the learned Government Advocate appearing for the second respondent, who would submit that the Screening Committee has completed the task long back and therefore it has become *functus officio*.

12. I have considered the submissions made by the learned counsel for both sides and have perused the materials placed on record.

13. As has been rightly pointed out by the learned counsel for the first respondent, the Screening Committee was appointed by the orders of the writ Court dated 13.05.2008 which has been confirmed by the Division Bench by order dated 29.09.2010 and a direction was given to the Screening Committee to fix the cut-off date, within which whoever made applications that alone was considered and no further application shall be entertained.



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14. Accordingly, the Screening Committee fixed the date of 23.09.2011 as the last date or cut-off date before which whoever made application alone was considered.

15. In this context, though it was claimed by the petitioner that on 23.09.2011 such application was made, it is the case of the respondents that such application has not been made to the Screening Committee, but only to the first respondent.

16. In this context, the learned counsel for the petitioner though vehemently contended that the representation submitted before the cut off date should have been considered, this Court feels that, after knowing well that the cut-off date is 23.09.2011, this representation has been dated as 23.09.2011 and if at all this representation had been given on 23.09.2011 and the same has not been taken into account by the Screening Committee as 124 final candidates list was released in 2012 by the Screening Committee, at that time itself the petitioner could have agitated the issue. Admittedly, no such agitation has been made and only after six years ie., in 2018 the present writ petition has been filed. The reason for such delayed approach by the petitioner, according to the learned counsel for the petitioner, is that continuously the petitioner has been agitating the issue by making representation after representation in the year



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2011, 2017 and 2018.

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17. Whatever it may be, applications made after 23.09.2011 cannot be taken into account by virtue of the orders of this Court as referred to above. Even the application dated 23.09.2011 claimed to have been sent by the petitioner to the first respondent, whether has been sent or not cannot be decided by the Writ Court, as it is only th claim of the petitioner, which is denied by the first respondent. Moreover the Screening Committee which was constituted for this special purpose, having been completed the task has become *functus officio*. Therefore, at this length of time, the plea raised by the petitioner cannot be considered and accepted. Therefore, the prayer sought for herein to seek for a writ of Mandamus to consider the request of the petitioner for grant of job to the petitioner's family or the petitioner cannot be considered.

18. Though in this regard the learned counsel for the petitioner has relied upon the proceedings dated 05.03.2019 issued by the District Collector concerned, on a perusal it is found that the District Collector has stated in the said proceedings that, out of the 124 candidates finalized by the Screening Committee, 109 candidates have already been provided with employment. In respect of the remaining 15 persons, for want of vacancy jobs were not offered. Therefore, the matter has been taken up for resolution by the District Collector



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and ultimately the first respondent, through their subsidiary Society called INDCOSERVE wanted to offer some jobs that was accepted by 8 out of the 15 candidates. Insofar as the remaining candidates, 5 out of the 15 wanted to get judicial orders as they want to change the offer and posting to some other legal heir as they did not have direct legal heir and other two persons are concerned, one has died and another one is physically challenged person. Therefore, he wanted to provide the job opportunity to another legal heir and that issue could not be resolved.

19. Therefore, even in the meeting presided by the District Collector dated 05.03.2019, nothing has been disclosed beyond that the 124 candidates who made applications before the Screening Committee or before the cut off date ie., 23.09.2011. Therefore, that proceedings would not advance in any way the case of the petitioner, as projected by the learned counsel for the petitioner.

20. For all these reasons, the writ petition fails and the same is liable to be dismissed. Accordingly, it is dismissed. No costs.

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Index : Yes/No
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To



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