

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved : 23.11.2021
Delivered on:21.03.2022

CORAM

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.27614 of 2017

P.Subburaj

...Petitioner

..Vs..

1.The Principal Secretary,
Housing and Urban Development Department,
Government of Tamil Nadu,
Secretariat, Chennai - 600 009.

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

...Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to allot a house under the public quota for rent at Tower Block, Taylors Road, Kilpauk, Chennai to the petitioner by considering the petitioner's representation dated 21.09.2017.

For Petitioner : Mr.Jayaprakash
for M/s.K.Vanangamudi

For Respondents : Mr.K.M.D.Muhilan
Government Advocate for R1.

Mr.R.Bharatkumar
Standing Counsel for R2

O R D E R

This writ petition has been filed for a direction to the respondents to allot a house under the public quota for rent at Tower Block, Taylors Road, Kilpauk, Chennai to the petitioner by considering the petitioner's representation dated 21.09.2017.

2. According to the petitioner, he has enrolled in Bar Council of Tamil Nadu on 11.11.1987 as an Advocate. He was appointed as President of the District Consumer Redressal Forum, Madurai on 31.10.2005 and was drawing Rs.16,750/- basic salary per month and served for 9 months and thereafter he was transferred to Namakkal on 13.07.2006. During the relevant period, he was in charge of Karur and Dindigul Districts and disposed of several cases on merits.

3. The petitioner's wife served as nurse in Government Zonal Eye Hospital and retired on 31.05.2017. The petitioner's daughter is studying B.D.S. 3rd year and his son has completed 12th standard and is awaiting to join college.

4. Under these circumstances, the petitioner has applied for allotment of a house on rental basis under public quota. The criteria to be looked into to give house under public quota is that the candidate should have done any good deed or charity to the general public and preference shall be given to such person who has come forward to serve the society morally with their good deeds. In this regard, the petitioner pointed out that he served the society by disposing several cases of litigants while working as President of the District Consumer Redressal Forum in Karur and Dindigul districts. Therefore, he has given a representation on 21.09.2017 but the respondents have not taken into consideration to dispose of the same. Hence the Writ Petition.

5. Per contra, the learned counsel appearing for the respondents would submit that the petitioner is a practicing advocate and he was appointed as a President of District Consumer Redressal Forum and his wife had also retired from service on 31.05.2017 as Nurse. Therefore, he would submit that they can manage on their own without any house being allotted on rental basis under the public quota.

6. However, in reply, the learned counsel appearing for the petitioner would submit that he served as President of the Consumer Redressal Forum and disposed of many number of cases and he has substantially contributed the good deed to the public. Therefore, he is entitled for allotment of the house under public quota.

7. Heard the learned counsel for the petitioner and the learned counsel appearing for the respondents and perused the entire materials available on record.

8. There are two categories under which the Government allots rental accommodation, viz., "Public Quota" and "Government Quota". Though 'public quota' is shown as a distinct quota, it essentially forms part of the Government quota, as 20% of the accommodation made available by the Government is carved out to be allotted under the 'public quota'. The claim of the petitioner has to be considered under public quota since in the present case, the petitioner, a practicing lawyer, aged 60 years and admittedly served as a President of the Consumer Redressal Forum and disposed of many number of cases and therefore, this Court is of the view that the petitioner is entitled to seek rental accommodation under 'public quota'.

9. This Court in the case of "T. Sornapandian & Others v/s The Principal Secretary to Government, Housing & Urban Development (HB(2) HB5(2)) Department, Chennai & Others" in W.A.Nos.453 to 457 of 2019 etc., batch, dated 01.03.2019, a Division Bench of this Court observed as regards the 'public quota' as under:

"The question is what is "public quota"? The respondents have not placed any material as to what would constitute 'public quota'. Going by the meaning of the word 'public', we may be right in assuming that this quota is meant for the general public. If this is the liberal meaning to be assigned to the word 'public quota', who are the general public who will be entitled to this accommodation. Admittedly, the number of houses/tenements available under this quota are limited and available only in three cities, viz., Chennai, Madurai and Coimbatore. Therefore, how does the Government distribute this largess to the public. Are there any Rules framed by the Government to regulate the allotment? To our knowledge, there is nothing in place in the form of a statutory rule or an executive instruction. Consequently, who would fall within the definition of "public". Is there an income criteria? Is it based on social status? or is it based on any outstanding or sterling performances of an individual for the cause of public and the welfare of the State or to a meritorious person, who has put service above self etc. All these questions remain unanswered."

10. A perusal of the above, the allotment of residential accommodation under public quota has not been specifically prescribed to whom it has to be actually allotted. In such circumstances, it has to be construed that a person who renders service to the public, is certainly entitled to the residential accommodation under public quota.

11. In fact, the services rendered by the Advocates in assisting the Courts in the matter of dispensation of justice will fall under the category of public service since the litigant public would get resolved their disputes by engaging them. Advocate is an Officer of the Court, discharges public law functions of providing access to justice to the needy litigants. He has also the responsibility of ensuring that administration of justice carried on unhindered. The role of a Lawyer is indispensable in the system of delivery of justice. The Advocate's duty is as important as that of a Judge and they play a vital role in the preservation of justice system and since the duty of a lawyer is to assist the Court in the administration of justice, the practice of law has a public utility flavor. Though the lawyers are viewed in society as highly competent and capable, but low in warmth and trustworthiness. Nowadays, many of the young Advocates, though they have mastered their degree in law, are facing many difficulties in society since they are in the irregular income group in their initial stage of practice facing difficulties to meet out their financial needs and to eke out their livelihood. While so, it is more difficult for them to find out their shelter on rental basis. Further, many of the landlords of houses, will not evince interest to let their property to the Advocates, apprehending that they may delay in payment of rent in time and likewise, the Banks also will hesitate to provide loans to the Advocates due to their income category. In the present case, it is unfortunate to note that the petitioner, having completed nearly 35 years of practice as an Advocate and also for short period as President of the District Consumer Redressal Forum, at the age of 60, he could not own a house and still facing difficult in finding his shelter and seeking the assistance of the Government and applied for allotment of residential accommodation under public quota.

12. Therefore, taking into consideration the predicament of many of the lower-income young Advocates and their services rendering to the society by assisting the Courts in the matter of dispensation of justice to a greater extent, this Court feels that it would be appropriate to give preference by reserving some percentage in public quota to the Advocates fraternity in

the matter of allotment of residential accommodation to them in consultation of Bar Council of Tamil Nadu and Puducherry, initially for those who are practicing at the High Court of Madras and its Bench at Madurai. Accordingly, this Court pass the following order:

(i) the respondents are directed to consider the representation of the petitioner, dated 21.09.2017, on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order.

(ii) this Court directs the respondents and the Government of Tamil Nadu to frame a scheme in consultation with the Bar Council of Tamil Nadu and Puducherry to consider for the allotment of houses on rental basis by giving preference to the practicing young advocates until the prescribed age, in public quota or otherwise, after taking into consideration of financial status of concerned advocate, who apply for residential accommodation on rental basis for limited number of years.

13. With the above, the Writ Petition is disposed of. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

Suk

To

1.The Principal Secretary,
Housing and Urban Development Department,
Government of Tamil Nadu,
Secretariat, Chennai - 600 009.

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

3.The Secretary,
Bar Council of Tamil Nadu and Puducherry,
Chennai 600 104.

4. The Chief Secretary,
Housing and Urban Development Department,
Government of Tamil Nadu,
Secretariat,
Chennai 600 009.

+1 CC to Mr.R.Vanangamudi, Advocate sr 19248
+1 CC to Mr.R.Bharatkumar, Advocate sr 19217.

W.P.No.27614 of 2017

MT(CO)
SP(04/04/2022)