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W.P.Nos.25589 to 25594 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.08.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.Nos.25589 to 25594 of 2011
and M.P.No.1 of 2011 (6 Nos.)

W.P.No.25589 of 2011 :-

1. The Project Director,
District Rural Development Agency,
Puducherry.
2. The Block Development Officer,
Block Development Office,
Karaikal.
3. The Extension Officer,
Block Development Office,
Karaikal.

...Petitioners

-Vs-

1. State Legal Services Authority,
Rep. by its Member Secretary,
No.46, Goubert Avenue,
Puducherry – 605 001.
2. Job Card Holders of Tiruvetttagudy
& Adjoining Villages of Kottucheery Commune,
Rep. by Adaikalasamy (Job Card No.0001/A),
No.61, Colony Melaveethi,
Thiruvettakudy, Kottucherry,
Karaikal.

... Respondents



W.P.Nos.25589 to 25594 of 2011

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the Award dated 30.05.2011 made in Proceedings No.Nill on the file of the Lok Adalat of the first respondent made in respect of the Tiruvettagudy and adjoining Villages of Kottucherry Commune Karaikal and quash the same.

In all WPs

For Petitioners : Mr.T.M.Naveen

For Respondents

For R1 : Mr.R.Syed Mustafa
Special Government Pleader (Pondy)

COMMON ORDER

These writ petitions have been filed challenging the awards dated 30.05.2011, 03.06.2011, 10.06.2011 passed by the first respondent in the Lok Adalath, thereby directing the petitioners to pay a sum of Rs.7,07,375/- to the job card holders of Tiruvettagudy and adjoining villages of Kottucherry as unemployment allowance.

2. Heard the learned counsel appearing on either side and perused the material placed before this Court.

3. On perusal of records revealed that the Government of India



W.P.Nos.25589 to 25594 of 2011

has enacted the National Rural Employment Guarantee Act, 2005.

Subsequently, it has been renamed as Mahatma Gandhi National Rural Employment Guarantee Act (herein after called as “the NREG Act”). The Government of Puducherry has framed National Rural Employment Guarantee Scheme, Puducherry (herein after called as “the Puducherry Scheme”), for providing livelihood security for the households in the notified rural areas of the Union Territory of Puducherry by providing atleast 100 days of guaranteed wage employment in every financial year to every household whose adult members volunteer to do unskilled manual work.

4. Further, the first and second petitioners have to implement the scheme with the assistance of the Joint District Programme Co-operator/Project Officer, the Block Programme Officer and the Presidents of the Panchayats at the District Block and Village levels respectively. As per Clause 1.6.1 of the Puducherry Scheme, the Panchayats have to implement the said scheme at the commune and village levels. As per Clause 2.2 & 2.4, any adult member of a households who desires to do unskilled manual work can apply to registration to the village panchayat or block programme officer and obtain a job card for a



W.P.Nos.25589 to 25594 of 2011

period of five years. As per Clause 2.5, the job card holders should generally submit application for work to the Presidents of the village panchayats and also block programme officer. As per Clause 2.6, depending upon the availability of work, the Presidents of village Panchayat and the block programme officer have to allot works to those applicants either in the panchayat works or in the general works to be entrusted to the other implementing agencies.

5. Therefore, the President of the village panchayats are responsible for providing employment to the applicants within 15 days from the date of receipt of application for work. If they were not provided for any employment within a period of fifteen days, they were entitled for unemployment allowance subject to their eligibility viz., they should not fall within any of the categories prescribed in Clause 4.2.2 of the Puducherry Scheme and if they fall in such categories, the liability of the village panchayat to pay unemployment allowance to them shall cease. The entitlement of their household at the rate of $\frac{1}{4}^{\text{th}}$ of the wage rate of the first 30 days and not less than $\frac{1}{2}$ of the wage rate for the remaining statutory period during the financial year and also the economic capacity of the government of Puducherry to pay the same.



W.P.Nos.25589 to 25594 of 2011

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6. Further, the first respondent has no authority or jurisdiction either to assume itself as a supervising authority over the authorities constituted under the NREG Act & Puducherry Scheme to issue directions or exercise their power and functions to carry out the same by itself. While the first respondent conducted legal awareness camps, the job card holders have submitted their application for work under the NREG Act and Puducherry Scheme. In spite of giving proper advise to the applicants to submit their application before the concerned President of village panchayats or Block Development Officer, the first respondent collected the applications and forwarded the same to the second petitioner. Thereafter, the applications were forwarded to the President of Thiruvettakudy village panchayat and they were given employment.

7. However, on 01.03.2011, the Election Commission has imposed the model code of conduct for conducting the elections to the legislative assembly of the Union Territory of Puducherry and the same was in force till 13.04.2011. Therefore, the petitioners were prohibited from creating any new work. Therefore, they were not able to prove employment to the remaining applicants till the completion of election. In



W.P.Nos.25589 to 25594 of 2011

fact, the applicants are eligible to claim unemployment allowance only for the period from 26.02.2011 to 31.03.2011 after deducting the three intervening holidays i.e., for 30 days, that too at the rate of $\frac{1}{4}^{\text{th}}$ of the wage rate and subject to the economic condition of the government of Puducherry.

8. In view of Clause 4.2.3 of the Puducherry Scheme, the Presidents of the village panchayats have to sanction and disburse the unemployment allowance. Therefore, the applicants have to make their application for payment of unemployment allowance before the concerned Presidents. On receipt of the said request, the Presidents of village panchayats have to consider and determine those claims as prescribed under the NREG Act & the Puducherry Scheme. If their claims are rejected or not considered, then the applicants can very well approach the forum, including the first respondent.

9. However, all the applicants directly approached the first respondent and without even verifying the legality and applicability and without deducting $\frac{1}{4}^{\text{th}}$ rate of wage, the first respondent passed the award. That apart, there was no settlement arrived between the parties. In fact, no notice was ordered to the petitioners and no opportunity of hearing



W.P.Nos.25589 to 25594 of 2011

given to them. There was no possibility to arrive at a compromise or settlement between the parties and the matter needs to be determined as per their claim. The first respondent never issued any summons to the petitioners or the President of Thiruvettakudy village panchayat who are the competent persons to provide employment under the scheme.

10. That apart, on perusal of award, the parties have not signed in that award and therefore they have not agreed to settle the said issue as per the award. Further, the first respondent has no jurisdiction to pass such an award impugned in these writ petitions and it cannot be sustained and liable to be quashed. Accordingly, the awards dated 30.05.2011, 03.06.2011 & 10.06.2011 passed by the first respondent in the Lok Adalath, are hereby quashed.

11. In the result, all the Writ Petitions stand allowed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to cost.

23.08.2023

Internet: Yes

Index : Yes/No



W.P.Nos.25589 to 25594 of 2011

Speaking/Non Speaking order

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W.P.Nos.25589 to 25594 of 2011

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1. The Member Secretary,
State Legal Services Authority,
No.46, Goubert Avenue,
Puducherry – 605 001.



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G.K.ILANTHIRAIYAN. J.

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