



W.P.No.20772 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on : 13..02..2023
Orders Pronounced on : 03..03..2023

Coram

THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**

Writ Petition No.20772 of 2014
and
M.P.No.2 of 2014

M.Chezhiyan

..... Petitioner

-Versus-

1.Deputy Collector (Revenue),
Revenue Department,
Puducherry.

2.Tahsildar,
Oulgaret Taluk,
Puducherry.

.... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the 1st respondent - Deputy Collector (Revenue), Revenue Department, Puducherry, pertaining to his letter vide letter No.8242/DC/(R) N/Tsu-A4/2011 dated 18.10.2012 and to quash the same and consequently, direct the respondent to allot Tsunami house to the petitioner.



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For Petitioner : Mr.V.Ajayakumar
For Respondents : Ms.V.Usha,
Additional Government Pleader
for RR1 & 2

ORDER

The petitioner is one Mr.Chezhian. He seeks certiorarified mandamus challenging letter dated 18.10.2012 that has been passed by the 1st respondent – Deputy Collector (Revenue), Revenue Department, Puducherry and for a consequential direction to the respondents, R1 as well as the Tahsildar, Oulgaret Taluk, Puducherry, being the 2nd respondent, to allot a house to the petitioner in place of the house that was destroyed by the Tsunami in 2004.

2. The petitioner claims that he was born and brought up at Ganapathichettikulam Fishermen Colony at Puducherry and was residing in a house in that colony. His house, along with other houses in that hamlet, was destroyed by the Tsunami which hit the seashore of Puducherry Union Territory on 26.12.2004. The petitioner lost his father in that disaster as well.

3. Various relief measures were announced by the Government and the petitioner was given a sum of Rs.20,000/- as an adhoc measure on



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03.01.2005. His boat had been damaged for which also, compensation was paid. He thus claims that the Government has accepted his eligibility to Tsunami relief and he is thus eligible to all other welfare measures as well.

4.The Government had announced a scheme for construction of houses for the persons affected by the Tsunami. A list of persons eligible for welfare measures had been prepared wherein the petitioner's name figured and thus, he would submit that his name ought to have also been considered for the allotment of a house.

5.However, in the final list of eligible persons that was prepared by the committee, he found that his name did not figure therein. Pursuant to several representations, he received the impugned letter which he challenges in the present writ petition. The impugned letter, no doubt, is cryptic and non-speaking and reads as below:-

*“Government of Puducherry
Office of the Deputy Collector (Revenue) North
No.8242/DC(R)N/Tsu-A4/2011 Puducherry, the 18
Oct 2012
To
Thiru.K.Cheziyan,
Son of Ganesan,
No.30, North Street,
Kanagachettikulam,
Puducherry,*



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Sir,

*Sub: SC(R) N – Request from
Thiru.K.Cheziyan,*

.

Puducherry for Tsunami house – Reg.

Ref: Your application dt. 11.06.2012

-o0o-

Your petition / request for allotment of Tsunami house has been carefully examined and it is informed that the allotment of houses to the beneficiaries was decided by a duly constituted Village Committee formed by the Government which has selected the beneficiaries after examining each petition on case-to-case basis. Your petition was not considered by the committee and therefore, your request could not be acceded to.

Yours faithfully,

sd/- xxx

Deputy Collector (Revenue) North

6. After hearing on 30.01.2023, the following order was passed by
this court:-

“Pleadings are complete. Print the name of Mrs.V.Usha, learned Additional Government Pleader (P) for respondents.

2. The petitioner claims to be a fisherman residing at Ganapathichettikulam, Puducherry. He claims to have affected in the Tsunami which hit the seashore of Puducherry on 26.12.2004 and losing in the course of the same, his house, some



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members of his family and his possessions. He had, admittedly, made applications on 11.06.2012 and 04.07.2012 seeking allocation of a house which has come to be rejected by way of impugned order dated 18.10.2012.

3. The impugned order proceeds on the basis that the question of allocation was decided by the specifically constituted Village Committee adverse to him. Quoting the aforesaid, the Government rejects the petitioner's case opining that the Committee had selected beneficiaries after examining each application on a case-to-case basis. The order is short and reads as follows: '

'Your petition/request for allotment of Tsunami house has been carefully examined and it is informed that the allotment of houses to the beneficiaries was decided by a duly constituted Village Committee formed by the Government which has selected the beneficiaries after examining each petition on case to-case basis. Your petition was not considered by the committee and therefore, your request could not be acceded to'

4. Since the order is, in itself, non-speaking, learned counsel for the respondents was asked for the basis on which the application was rejected. She draws attention to the counter, particularly to paragraphs 11 onwards which set out the facts in this regard.

5. It appears that 218 beneficiaries had been selected for allocation but the name of the petitioner was not considered, since he had not submitted requisite documents before the Village



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Committee to establish his claim that he was, indeed, a resident of Ganapathychettikulam. The respondents proceed on the basis that he is a resident of Ariyankuppam, Puducherry. She also points out incidentally, that the petitioner's mother one Tmt.Patchaivalli, W/o Murugaiyan @ Ganesan, and his brother Sivapragasam had also been allotted Tsunami houses.

6. Let records be produced to establish that there has been application of mind by the Village Committee to the facts of the petitioner's case.

7. At request of learned counsel for respondents, list on 06.02.2023.”

7. The matter was thereafter adjourned to 06.02.2023 to receive the documents sought for under the earlier order. The records were produced on 06.02.2023 and in my order of even date, I have set out the events that transpired on that hearing in the following terms:-

Read this order in conjunction with and in continuation of order dated 30.01.2023. The records are produced today. The sequence of dates and events as may be prima facie gleaned from the records is that

(i) the report of the Tahsildar, Taluk Office, Oulgaret, Government of Puducherry dated 01.12.2011 reveals that the petitioner was / is residing in a rented house at Ariyankuppam and working in Chemfab Alkalies Limited (Company), located at Kalapet.

(ii) He was a resident in Veerampattinam post his marriage to Tmt.Sabarmathy, in 2000.

(iii) The report of the Village



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Administrative Officer, Ariyankuppam Revenue Village, Taluk Office, Puducherry dated 03.02.2023 supports the above position as does the report of the Village Administrative Officer / Revenue Inspector, Oulgaret dated 04.02.2023.

(iv) The petitioner not having resided in Ganapathychettikulam cannot seek entitlement to the house thereat.

(v) His parents were fisherfolk who were resident in the hamlet in Ganapathychettikulam that was destroyed by the Tsunami.

(vi) His father has expired in the Tsunami and his mother Tmt.Patchaivalli had been allotted a house under Tsunami Housing Scheme.

(vii) His brother Jayprakash, also a fisherman and living in a separate house destroyed by the Tsunami, has been allotted a new house as well.

(viii) The aforesaid house allotments are under Sl.Nos. 170 – 171 of the allotment list.

(ix) The petitioner owns a property at No.14, North Street, Ganapathichettikulam purchased on 01.03.2006 for which sale deed has been placed as part of the records.

(x) An enquiry with made by the respondents with Chemfab Alkalies Limited and the records include documents issued by the Company to the effect that the petitioner is working since 01.07.1975 in the Human Resources Department.

(xi) The Company has, designated the petitioner as Officer in the Human Resources Department with effect from 01.04.2012 revising CTC to an amount of Rs.3.26 lakhs per annum.

2. The aforesaid facts placed on record by the respondents are duly conveyed to the



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counsel on record for the petitioner, who seeks a few days time to confirm the same. It is relevant to state that the writ petition is blissfully vague and does not set out any of the particulars that are now produced before the Court.

3. An affidavit will be filed by the petitioner clarifying the aforesaid position.

4. List on 13.02.2023.

8. Today, records are produced by Mrs.V.Usha, learned Additional Government Pleader (Puducherry) for the respondents. She would reiterate the fact that the petitioner has been employed in Chemfab Alkalis Limited from 1995 onwards. This aspect is not in disputed.

9. If it were so, this puts paid to the statement in para 3 of the affidavit where the petitioner states '*My boat which was only the source of income, which was also completely damaged for which also compensation was paid.*' The boat, learned counsel for the respondents would submit, was being used by other fishermen and not by the petitioner who was employed in a corporate, with the remuneration commensurate to that post.

10. That apart, the respondents rely on G.O.Ms.No.24, Department of Revenue & Disaster Management, Puducherry dated 11.03.2013, which, at para 4 sets out the categorisation of persons for allotment of



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houses in various hamlets of Puducherry and Karaikal regions. The Order, including the benchmarks for eligibility, at paragraph 4 thereof, reads thus:

**GOVERNMENT OF PUDUCHERRY
ABSTRACT**

*DEPARTMENT OF REVENUE AND DISASTER
MANAGEMENT - TSUNAMI - ALLOTMENT OF
UNALLOTTED HOUSES TO ELGIBLE
BENEFICIARIES IN THE TSUNAMI AFFECTED
COASTAL HAMLETS OF PUDUCHERRY AND
KARAIKAL REGIONS - ORDERS ISSUED.*

**DEPARTMENT OF REVENUE AND DISASTER
MANAGEMENT**

**G.O.Ms.No.24
Mar 2013**

Puducherry, dated 11

*Read:- G.O.Ms. No. 89, dated 25.07.2005 of the
Department of Revenue & Disaster
Management.*

ORDER:-

Consequent to the tsunami devastation on 26.12.2004 many houses in coastal villages were damaged. In order to rehabilitate the Tsunami affected families, the Government of Puducherry had constructed houses in various hamlets of Puducherry and Karaikal regions.

2. On completion of construction of houses, they were handed over to the eligible beneficiaries duly



selected by the village committee constituted as per the conditions stipulated in the G.O. read above. The Government have been receiving numerous petitions for allotment of Tsunami houses which are kept unallotted/unutilized in various hamlets of Puducherry and Karaikal regions.

3. As the allotment of houses to beneficiaries had been completed in many of the Tsunami affected hamlets, the village committee were dissolved and reconstitution of such committee is not viable in the present scenario as it would take more time. Therefore, the recommendations of the village committee shall be dispensed with.

4. After careful consideration, the Government have now decided to allot the houses which are being kept unallotted/unutilized in various hamlets of Puducherry and Karaikal regions. Therefore, the Sub-Collectors/Deputy Collectors of Puducherry and Karaikal regions shall identify eligible beneficiaries who deserve to avail the said benefit. The Sub-Collectors/Deputy Collectors while identifying the beneficiaries shall take into consideration of the following aspects and select beneficiaries accordingly:

(i) the beneficiary shall be a member of the family of below poverty line whose family income shall not be more than 24,000/- per annum irrespective of community viz., Fishermen and non-Fishermen etc.;

(ii) a beneficiary who had already availed house under any scheme in the Government of Puducherry or any other Government is not eligible to avail the benefit under the scheme;

(iii) the houses shall be allotted to those victims who are living in huts or houses which were completely damaged during tsunami;



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(iv) the houses shall be allotted to those victims whose damaged houses were located in close proximity to sea;

(v) while allotting houses to beneficiaries belonging to fishermen/non fishermen community, preference shall be given for allotting the houses at places where the particular community is living based on the availability of houses;

(vi) no beneficiary is eligible for allotment of house if any of his/her family member had already been allotted a house in the tsunami settlement or under any other scheme;

(vii) the allotment of houses shall be done in the order of priority as under:

(i) Widows;

(ii) Disabled based on the percentage of disability;

(viii) the houses shall be allotted in the name of the female member of the family. Alternatively, it can be allotted in the name of the both husband and wife. However, if there is no eligible female member in the family available / alive, house can also be allotted to the male member of a deserving family;

(ix) in the event of the death of the allottee, the transfer can be effected to the surviving legal heirs including minors with the consent of the other members of the family.

5. Based on the recommendations of the Sub-Collector/Deputy Collector, the respective District Collectors shall issue allotment orders to the deserving beneficiary after the approval of the Relief and Rehabilitation Commissioner. The Sub-



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Collectors/Deputy Collectors shall cancel the allotment and take any other action against the allottee for breach of conditions stated in para 4.

*// BY ORDER OF THE LIEUTENANT
GOVERNOR //*

*Sd/- xxxxx
[Dr.S.B.Deepak Kumar, I.A.S.)
Special Secretary (Revenue)*

11. Per contra, Mr.V.Ajayakumar. learned counsel for the petitioner would point out that this is not the Government Order under which the petitioner's eligibility should be assessed, as the proper Government Order would be G.O.Ms.No.89 dated 25.05.2005, issued by the Department of Revenue & Disaster Management, Puducherry. The said Government Order is extracted in full as this is the Government Order in terms of which the petitioner rightly states his eligibility for allotment must be determined.

*GOVERNMENT OF PONDICERRY
ABSTRACT*

*REVENUE - RELIEF AND REHABILITATION - TSUNAMI
- GUIDELIES FOR THE ALLOTMENT OF
PLOTS/HOUSES TO THE TSUNAMI AFFECTED
FAMILIES - ISSUED.*

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DEPARTMENT OF REVENUE AND DISASTER



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MANAGEMENT

G.O.Ms.No.89

Pondicherry, the 25th July 2005

Read: 1. Minutes of the Tsunami Rehabilitation Conference held on 4.7.2005.

2. I.D.No.1207/ASR/RO/D2/2005 dated 14.07.2005 of the Department of Revenue and Disaster Management.

Tsunami struck the coastal areas of the Pondicherry and Karaikal Districts of the Union Territory of Pondicherry on 26.12.2004 causing huge devastation to both life and property. In order to restore and rebuild the houses, Government had issued policy guidelines on housing vide G.O.Ms.No.29 dated 15.03.2005 for facilitating the participation in housing reconstruction activities by the NGOs Project implementation Agency, Government of Maharashtra, etc.

2. Land acquisition process have been completed and land taken possession in Karaikal District and the lands are ready for construction of houses to the tsunami affected victims. In Pondicherry District the land acquisition process are at various stages. Lands have been earmarked to different NGOs. PIA and Govt. of Maharashtra for undertaking the construction of houses in time bound manner.

3. In the Tsunami Rehabilitation Conference held under the Chairmanship of His Excellency the Lt. Governor and Co-Chairmanship of Hon'ble Chief Minister, it was decided to allot the plots by drawl of lots to the beneficiaries in a transparent manner.

4. The matter was further discussed in a meeting held on 06.07.2005 in the Conference Hall, Chief Secretariat,



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Pondicherry under the Chairmanship of Relief and Rehabilitation Commissioner - cum - Development Commissioner with all the NGOs, Collectors, Project Director of PLA, Officials of Town and Country Planning Department, Revenue, Planning Authority, PLA, Superintending Engineer, etc.

5. *As a matter of policy it is decided that each and every plot where construction of house is proposed for the tsunami affected victims should be allotted in the joint name of husband and wife to the beneficiary family prior to starting of construction work so that the beneficiaries are involved in the process of construction and also participate in quality supervision. In addition to the allotment of plots, the boundaries of the plot are to be clearly demarcated and shown to the beneficiary on the ground.*

6. *The allotment of plots shall be done by drawl of lots at appointed time in the presence of the victims in the villages. After the drawl of lots, exchange of plots may be permitted with mutual consent of beneficiaries/allottees in which the order of priority shall be as under.*

- i. *Widows*
- ii. *Orphaned Children*
- iii. *Destitutes*
- iv. *Elders and*
- v. *Disabled*

The allotment of plots is done prior to the starting of construction works to enable them to supervise the quality of construction of works and they can even contribute their labour, material, etc, in co-ordination with the constructors, so that the same can be utilized for better construction of the house, with the approval of the concerned Collector. Allotment shall be made by the District Collector in the presence of MLA and the Village



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Committee Constituted for this purpose.

7. *The manner of allotment should be open and transparent. All the eligible applicants shall be listed out in alphabetical order and be publicized in the village well in advance prior to drawl of plots with due consideration of priority and affixed in the conspicuous places of the locality and those listed finally shall take part in the drawl and for this purpose the Collector shall give wide publicity in the locality about the drawl of plots. Each lot shall be taken by each beneficiary in the order mentioned in the list. If any beneficiary / applicant is absent at the time of drawl of plot, his/her plot may be decided by drawing the lot by the non-official member of the Village Committee and the same will be final. At the time of drawl of plots, the lay-out / plan indicting the plot number and R.S.No., with revenue village shall be displayed for the perusal of all beneficiaries.*

8. *The Members of the Village Committee shall consist of the following.*

- i. *Collector of the District concerned - Chairman*
- ii. *Member of the Legislative Assembly concerned - Member*
- iii. *Commissioner of the concerned Local Body - Member*
- iv. *An officer deputed by the Director of Fisheries and Fishermen Welfare Department - Member*
- v. *Five prominent persons of the locality concerned appointed by the concerned Collector -*

Members

- vi. *Project Director or an Officer nominated by the Project Director of PIA - Member*
- vii. *Concerned Dy. Collector (Revenue) - Member Secretary*

The majority decision of the village committee is final.



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9. *The minutes of the meeting of the village committee is to be drawn up by the concerned Collector and the allotment of beneficiaries becomes final only after the minutes indicating the allotment to the beneficiary is approved by the Relief and Rehabilitation Commissioner.*

// BY ORDER OF THE LT. GOVERNOR //

Sd.....

(B.V.SELVARAJ)

RELIEF AND REHABILITATION COMMISSIONER

12. As per the above order, the allotment is to be made to all persons who are adversely affected by the tsunami and who were residing in the houses destroyed in the tsunami. There is no distinction made in regard to the avocation followed by the adversely affected person. The priority accorded is based on social considerations only, namely, Widows, Orphaned Children, Destitutes, Elders and Disabled, in that order.

13. Impugned order dated 18.10.2012 is, admittedly, non-speaking, and hence records were called for to examine whether the Village Committee that had been constituted for considering the applications of the applicants had applied its mind to the allotment sought. The file has been produced on 13.02.2023 and it is seen that the village committee had considered the applications based on the parametres set out in the Government Order applicable, as above.



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14.The applications of three persons had been rejected vide minutes dated 01.12.2011 that sets out the reasons for rejection, based on the enquiries made. Qua the petitioner, the details of enquiry are set out as follows:-

*Government of Puducherry
Taluk Office, Oulgaret
No.2194/TOO/A/2011/690 Puducherry, dt.
01.12.2011*

To

*The Sub Collector (Revenue) North,
Puducherry.*

*Sub: TOO – Petitions for allotment
of Tsunami Houses – Report
submitted – Reg.*

*Ref: Memo No.8051/SCRN/
REV-A4/2011 dt. 23.09.2011
from the Revenue Officer,
Office of the Sub Collector
(Revenue) North, Puducherry.*

Madam,

*With reference to the subject mentioned
above, the enquiry report is mentioned as
below:-*

.....
.....

*Thiru.K.Cheziyan, Son of Ganesan, No.30,
North Street, Ganagachettikulam, Puducherry*



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Sl.No.	Gist of the Petition	Details of enquiry
2	<i>Petitioner stated that he has been selected for allotment of Tsunami House and requested to allot him Tsunami House</i>	<i>Thiru.K.Chezhiyan, S/o Ganesan residing at No.30, North Street, Ganapathychettikulam, has married a girl from Veerampatinam before Tsunami and has been residing in a rented house at Ariyankuppam and working in Chemfab Company. His father Thiru.Ganesan expired in Tsunami. Tsunami house allotted both to his mother Tmt.Pachaivalli, W/o (Late) Ganesan vide Sl.No.170 and to his brother Jayaprakash vide Sl.No.171 at Ganagachettikulam. At present Thiru.Cheziyan is not residing at Ganapathychettikulam.</i>

15. The result of the enquiry as above, has, in fact, been communicated to the petitioner on 26.06.2012, putting him to notice that his request for allotment was to be rejected and the basis for such rejection. This letter has not been disclosed by the petitioner either in the affidavit nor has a copy of the same has been produced before this court.



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In any event, the records reveal that there has been due application of mind by the village committee in passing the impugned order.

16. The 2005 GO makes it clear that it is only those whose houses have been destroyed by the Tsunami that would be eligible. In the present case, there is a dispute as to whether the petitioner was at all, residing in Ganapathychettikulam Fishermen Colony at the relevant point in time. While the respondents have produced certificates to show that, post his marriage in 2004, the petitioner had shifted to Ariyankuppam, the petitioner has produced a certificate to show that between 2000-2004 he was in fact a resident in Ganapathychettikulam.

17. The petitioner has produced a ration card in support of the position that he was residing with his parents at the relevant time at No.30, North Street, Ganapathichettikulam, Puducherry. No doubt the family in a house destroyed by the Tsunami is eligible for a replacement. In this case, the Petitioner's mother Pachaivalli has, admittedly, been allotted a house under category (i) of clause 6 of the G O, viz., widows. There is, in the considered view of this Court, no opening for allotment of a house to each and every inmate of a displaced family.

18. At this juncture, Mr. Ajayakumar, learned counsel for the



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petitioner would draw the attention to the additional affidavit that the petitioner has filed on 14.02.2023 wherein at para 9, he has furnished instances where separate houses have been allotted to members of displaced families. Such instances are as follows:-

Sl.No.30 Ramasamy, S/o Gothandapani	Same family
Sl.No.4 Nagappan, Son of Gothandapani	
Sl.No.5 Irusammal, W/o Gothandapani	
Sl.No.43 Srinivasan, Son of Veerappan	Same family
Sl.No.17 Varadarasu, Son of Veerappan	
Sl.No.18 Athilakshmi, W/o Veerappan	
Sl.No.24 Gangatharan, S/o Krishnamurthy	Same family
Sl.No.28 Gopal, S/o Krishnamurthy	
Sl.No.30 Thirunavukarasu, S/o. Krishnamurthy	
Sl.No.32 Krishnamurthy, S/o Ramasamy	Same family
Sl.No.215 Ramakrishnan, S/o Perumal	
Sl.No.51 Ramadoss, S/o Perumal	
Sl.No.52 Perumal Son of Gangappa Chettiar	

19. The explanation tendered by the respondents is that all the allottees were residing in separate houses even to begin with. To be noted that even the Petitioner's brother Sivaprakasam has been allotted a separate but that is since he was, even to begin with, residing separately with his family.

20. In this case, salary certificate of the petitioner issued by Chemfab Alkalis Limited reveals that the Petitioner joined the company



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on 01.07.1995 and is holding the position of a Senior Executive therein.

Moreover, the certificates issued on 03.02.2023 and 04.02.2023 by the Revenue Inspector, Deputy Tahsildar cum Executive Magistrate and Village Administrative Officer make it clear that the petitioner and his wife Tmt.Sabarmathy were residing at Bhavani Nagar, Veerampattinam from and after their marriage in 2000 till 2007. Thereafter, they shifted to No.41 C Srinivasa Avenue Kakayanthoppu, Ariyankuppam, where they along with their children Akshara and Aryashu reside. The certificates refer to the field enquiries conducted.

21. Per contra, the petitioner relies upon a certificate issued by the Tahsildar on 23.08.2017 for Permanent Integrated Certificate for the petitioner's daughter. Even there, while No.30, North Street, Ganapathichettikulam, Puducherry has been filled in by the petitioner, it has been struck off and the address No.7/13, Bavani Nagar Main Road, Veerampattinam written in hand.

22. I would thus not attribute much credence to the residential addresss in column 16 B, which is the address in No.30, North Street, Ganapathichettikulam, Puducherry and I would prefer to go by the comprehensive certificates issued by the authorities after conduct of field



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enquiry.

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23. That apart, even accepting the argument that the petitioner was indeed residing at No.30, North Street, Ganapathichettikulam, Puducherry with his family, his mother Pachaivalli has already been allotted a house in respect of that very house that was destroyed by the tsunami. In my considered view, it is not the intention of the G O that each and every inmate of a house destroyed in the Tsunami must be provided with individual accommodation.

24. In light of the discussion as above, I conclude that there is no merit in this writ petition and confirm the impugned order. This writ petition and connected miscellaneous petition are dismissed. No costs.

13..02..2023

Index : yes / no
Speaking/non-speaking order
Neutral Citation : yes / no
Kmk/sl

To

1. Deputy Collector (Revenue),
Revenue Department, Puducherry.
2. Tahsildar,
Oulgaret Taluk, Puducherry.



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DR. ANITA SUMANTH.J.,

Kmk/sl

Pre Delivery Order
in
W.P.No.20772 of 2014

Orders Pronounced on
03..03..2023