



WEB COPY



W.P.Nos.29678, 15132, 15133 and 15134 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.06.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.29678, 15132, 15133 and 15134 of 2018

And

W.M.P.Nos.17905 to 17913, 34636, 34637 and 34639 of 2018

K.Vivekanandan	... Petitioner in W.P.29678/2018
1.S.Malarvizhi	
2.R.Gajalakshmi	... Petitioners in W.P.15132/2018
E.Sundaravalli, I.A.S.	... Petitioner in W.P.15133/2018
C.Kathiravan	... Petitioner in W.P.15134/2018

Vs.

1.The Government of Tamil Nadu Rep. by its Secretary, Housing and Urban Development Department, Secretariat, Chennai – 600 009.	... Respondent in all the W.Ps.
2.The Managing Director, Tamil Nadu Housing Board, 493, Anna Salai, Nandanam, Chennai – 600 035.	... Respondent in W.Ps.29678, 15132 and 15133/2018
2.The Managing Director, Marketing and Services, Tamil Nadu Housing Board, Special Project Division – II, Annexe Building, 1 st Floor, Ashok Nagar, Chennai – 600 083.	... Respondent in W.P.15134/2018



W.P.Nos.29678, 15132, 15133 and 15134 of 2018

Prayer in W.P.No.29678 of 2018:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the second respondent pertaining to order dated 14.12.2016 in Letter No.6333/HB-4/2016-7 and quash the same and consequently direct the second respondent to strictly comply with the G.O.Ms.No.56 of Housing and Urban Development HB 4(1) Department and fix the final cost of the Type-1 AIS flat as per Letter No.SPD II/Nerkundram/2012 dated 13.02.2013 of the second respondent towards the Door No.E-11-1 at Nerkundram Scheme under Own Your Housing Scheme which was allotted to the petitioner.

Prayer in W.P.No.15132 of 2018:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the second respondent pertaining to order dated 17.06.2015 in Letter bearing No.V.M.P3/14601/2015 and quash the same and consequently direct the second respondent to strictly comply with the G.O.Ms.No.56 of Housing & Urban Development HB 4(1) Department and fix the final cost of the Type-I AIS flat as per Letter No.SPD II/Nerkundram/2012



W.P.Nos.29678, 15132, 15133 and 15134 of 2018

dated 13.02.2013 of the second respondent towards the door No.D-12A-2 and door No.D-12-2 at Nerkundram Scheme under Own Your Housing Scheme which was allotted to the first petitioner and second petitioner respectively.

Prayer in W.P.No.15133 of 2018:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the second respondent pertaining to order dated 17.06.2015 in Letter bearing No.V.M.P3/14601/2015 and quash the same and consequently direct the second respondent to strictly comply with the G.O.Ms.No.56 of Housing & Urban Development HB 4(1) Department and fix the final cost of the Type-I AIS flat as per Letter No.SPD II/Nerkundram/2012 dated 13.02.2013 of the second respondent towards the door No.D-12A-2 and door No.D-12-2 at Nerkundram Scheme under Own Your Housing Scheme which was allotted to the petitioner.

Prayer in W.P.No.15134 of 2018:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the



W.P.Nos.29678, 15132, 15133 and 15134 of 2018

second respondent pertaining to order dated 30.06.2015 in Letter bearing No.SPD.II 1/2104/2011 and quash the same and consequently direct the second respondent to strictly comply with the G.O.Ms.No.56 of Housing & Urban Development HB 4(1) Department and fix the final cost of the Type-I AIS flat as per Letter No.SPD II/Nerkundram/2012 dated 13.02.2013 of the second respondent towards the door No.H-19-3 at Nerkundram Scheme under Own Your Housing Scheme which was allotted to the petitioner.

For Petitioners : Mrs.Dakshayini Reddy, Senior Counsel
for M/s.N.Senthil Kumar
in W.Ps.29678, 15133 & 15134/2018
for P1 in W.P.15132/2018

Mr.D.Selvaraj, Senior Counsel
for M/s.P.Kannan Kumar
for P2 in W.P.15132/2018

For Respondents : Mr.R.Shunmuga Sundaram
Advocate General
Assisted by
Mr.D.Veerasekaran

COMMON ORDER

The petitioners have filed these writ petitions seeking issuance of Writ of Certiorarified Mandamus to call for the records of the second respondent pertaining to orders dated 14.12.2016, 17.06.2015,



W.P.Nos.29678, 15132, 15133 and 15134 of 2018

17.06.2015 and 30.06.2015 respectively and to quash the same and to consequently direct the second respondent to strictly comply with G.O.Ms.No.56 of Housing and Urban Development HB 4(1) Department and fix the final cost of the Type-1 AIS flat as per Letter No.SPD II/Nerkundram/2012 dated 13.02.2013 of the second respondent towards the flats at Nerkundram Scheme under Own Your Housing Scheme which was allotted to the petitioners.

2.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.

3.The case of the petitioners is that the petitioners were selected by the Tamil Nadu Public Service Commission directly for the posts in Group – I service and were appointed by promotion to the Indian Administrative Service. The Government issued G.O.Ms.No.56, Housing and Urban Development HB 4(1) Department, dated 28.02.2011 issued detailed guidelines for implementation of Own Your Housing Scheme by Tamil Nadu Housing Board. The said Scheme is



W.P.Nos.29678, 15132, 15133 and 15134 of 2018

meant for providing affordable housing by the respective second respondent to Government servants without any profit motive.

4.The further case of the petitioners is that the second respondent by Resolution dated 27.10.2010 decided that the Officers of All India Service as on 01.03.2010 are eligible and can apply for allotment of dwelling units at Nerkundram Project under the said Scheme and allotted the same at a cost of Rs.65 Lakhs and issued provisional allotment order with payment schedule. After the original allotment, the Tamil Nadu Housing Board intimated about the subsequent allotment through lot system to 32 AIS Officers who joined All India Service at a later date at a cost of Rs.67,27,500/-. Thereafter, the flat price allotted to original allottees was revised to Rs.84,70,000/- and the flat price allotted to subsequent allottees was revised to Rs.86,97,500/-.

5.The further case of the petitioners is that the petitioners made request for allotment of flat and accordingly the petitioners were allotted Type – I dwelling unit at Nerkundram Project at a cost of Rs.1,35,96,070/-. Aggrieved over the cost fixed for the dwelling unit,



W.P.Nos.29678, 15132, 15133 and 15134 of 2018

the petitioners made representation to the second respondent to revise the cost on par with the other Officers, however, the second respondent rejected their request. Hence, these writ petitions.

6.The learned Senior Counsel appearing for the petitioners submitted that the Tamil Nadu Housing Board made the first allotment on 30.04.2011 for the AIS Officers available in service as on 01.03.2010 at a cost of Rs.65,00,000/- and subsequently the same was revised to Rs.84,70,000/- on 31.01.2014. The Tamil Nadu Housing Board also made subsequent allotment to new entrants joining the Government service after the original allotment without changing the base rate fixed for the original allottees but by adding 10% interest on the installment amount and the cost fixed for the flats allotted on 17.08.2012 was Rs.86,97,500/-, however, when the allotment was made to the petitioners from the reserved surplus stock during the year 2015, the base rate was changed and the allotment was made at a cost of Rs.1,35,96,070/-, which is exorbitant, unfair and clear discrimination inbetween the Officers, as the eligible Officers of the same category were allotted flats at a different rate earlier. The present Scheme was introduced by the State Government for providing



W.P.Nos.29678, 15132, 15133 and 15134 of 2018

affordable housing to Government servants without any profit motive and it cannot be compared with other public sector undertakings.

7.The learned Advocate General appearing for the respondents submitted that during the policy announcement for the year 2009 – 2010, the State Government announced the Own Your Housing Scheme for the Government Officers and Employees. Subsequently, the Tamil Nadu Housing Board passed a Resolution dated 24.08.2010 to implement the Scheme for the Government Officers and Employees at Nerkundram. The Government vide G.O.Ms.No.56, Housing and Urban Development HB 4(1) Department, dated 28.02.2011 approved the proposal for the said Scheme and out of 608 dwelling units 443 nos. were allotted to AIS Officers and the balance 165 units remained vacant.

8.The learned Advocate General appearing for the respondents further submitted that the Tamil Nadu Housing Board taking into account the burden on previous allotments, increased the guideline value and passed a Resolution dated 28.02.2013 to allot the remaining 165 flats to Public Sector Undertaking Companies at the revised increased rates. After allotment to the Public Sector Undertaking



W.P.Nos.29678, 15132, 15133 and 15134 of 2018

Companies, 89 flats remained vacant. The Tamil Nadu Housing Board in its Resolution dated 07.08.2014, resolved to approve the recommendation of the Pricing Committee to fix the cost at Rs.135.96 Lakhs for Type – I Flats and Rs.102.49 Lakhs for Type – II Flats. Subsequently many IAS Officers and Public Sector Undertaking Companies requested for allotment of flat in the Scheme.

9.The learned Advocate General appearing for the respondents further submitted that the Tamil Nadu Housing Board in its Resolution dated 07.04.2015 decided to allot the Flats to AIS Officers and accordingly, the petitioners were allotted Type – I Flat at the rate of Rs.1,35,96,070/-. The petitioners had given their willingness for the above said rate and hence, they are not entitled to question the cost fixed by the second respondent at a later point of time.

10.Heard the arguments advanced on either side and perused the materials available on record.

11.The facts in the present case is not in dispute. Admittedly, the Tamil Nadu Housing Board made the first allotment on 30.04.2011



W.P.Nos.29678, 15132, 15133 and 15134 of 2018

for the AIS Officers available in service as on 01.03.2010 at a cost of Rs.65,00,000/- and subsequently the same was revised to Rs.84,70,000/- on 31.01.2014. The Tamil Nadu Housing Board also made subsequent allotment to new entrants joining the Government service after the original allotment without changing the base rate fixed for the original allottees but by adding 10% interest on the installment amount and the cost fixed for the flats allotted on 17.08.2012 was Rs.86,97,500/-. Thereafter, the Tamil Nadu Housing Board taking into account the burden on previous allotments, increased the guideline value and passed a Resolution dated 07.08.2014, resolving to approve the recommendation of the Pricing Committee to fix the cost at Rs.135.96 Lakhs for Type – I Flats and Rs.102.49 Lakhs for Type – II Flats.

12.Subsequently many IAS Officers and Public Sector Undertaking Companies requested for allotment of flats in the Scheme and the Tamil Nadu Housing Board in its Resolution dated 07.04.2015 decided to allot the Flats to AIS Officers and accordingly, the petitioners were allotted Type – I Flat at the rate of Rs.1,35,96,070/-. Aggrieved over the cost fixed for the dwelling unit, the petitioners



W.P.Nos.29678, 15132, 15133 and 15134 of 2018

made representation to the second respondent to revise the cost on par with the other Officers, however, the second respondent rejected their request.

13.Perusal of records show that at the time of introduction of the Scheme the petitioners are not eligible for getting allotment of Flat, however, after appointment by promotion to the Indian Administrative Service, they became eligible for allotment of Flat. Thereafter, they made application for allotment of Flat and pursuant to the Resolution of the Tamil Nadu Housing Board dated 07.04.2015, the petitioners were allotted Flats and the cost of the Flat was indicated in the allotment order itself. Accepting the cost indicated in the allotment order, they started paying the installments to the Tamil Nadu Housing Board. Thereafter, these writ petitions have been filed questioning the fixation of cost at the allotment order, which is not sustainable. The petitioners cannot compare themselves with the Officers of All India Service who acquired the Flats at the initial stage. Hence, this Court is not inclined to interfere with the orders impugned in these writ petitions.



W.P.Nos.29678, 15132, 15133 and 15134 of 2018

14. Accordingly, these writ petitions are dismissed. Liberty is granted to the petitioners to approach the competent Authority, if there is any grievance with regard to fixation of interest alone. No costs. Consequently, the connected miscellaneous petitions are closed.

26.06.2023

pri

Speaking Order/ Non Speaking Order
Index: Yes/ No
Internet: Yes/ No

To

1. The Government of Tamil Nadu
Rep. by its Secretary,
Housing and Urban Development Department,
Secretariat,
Chennai – 600 009.
2. The Managing Director,
Tamil Nadu Housing Board,
493, Anna Salai,
Nandanam,
Chennai – 600 035.
3. The Managing Director,
Marketing and Services,
Tamil Nadu Housing Board,
Special Project Division – II,
Annexe Building, 1st Floor,
Ashok Nagar,
Chennai – 600 083.



WEB COPY



W.P.Nos.29678, 15132, 15133 and 15134 of 2018

M.DHANDAPANI,J.
pri

**W.P.Nos.29678, 15132, 15133
and 15134 of 2018
And
W.M.P.Nos.17905 to 17913, 34636,
34637 and 34639 of 2018**

26.06.2023