



W.P(MD)No.17274 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 31.07.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.17274 of 2015
and
M.P.(MD)No.1 of 2015

Kali

... Petitioner

Vs.

1.The Director,
Directorate of Rural Development &
Panchayat Raj Department,
Panagal Building, Chennai- 600 015.

2.The District Collector-Cum-Chairman,
District Rural Development Agency,
Ramanathapuram District,
Ramanathapuram.

3.The Assistant Director of Panchayats,
Ramanathapuram District,
Ramanathapuram.

4.The Block Development Officer,
Mudukulathur,
Ramanathapuram District.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned proceedings of the 4th respondent in Na.Ka.Thi3/354/2014 dated 12.03.2015 and to quash the same as illegal and consequentially direct the respondents to release the 3rd and final installment due to petitioner in IAY unique ID No.TN23009005005/2336254.

For Petitioner : Mr.S.Balakarthick

For Respondents : Mr.S.RA.Ramachandran,
Addl. Government Pleader.

ORDER

Heard the learned counsel on either side.

2.The petitioner belongs to schedule caste community. She is eking out her livelihood as an agricultural coolie. She was chosen as one of the beneficiaries of Indira Awaas Yojana which scheme is meant to address the issue of housing for those below the poverty line. Along with 11 others, the work order issued in favour of the petitioner was cancelled by the jurisdictional Block Development Officer vide proceedings dated 2/10



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12.03.2015. Out of 11 persons, the petitioner alone has come to this Court.

3.The learned counsel for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned proceedings insofar as the petitioner is concerned and direct the respondents to release the balance payment.

4.The fourth respondent who passed the impugned order had filed counter affidavit and the learned Additional Government Pleader took me through its contents. In the counter affidavit, it has been stated that based on the resolution passed by the village panchayat council, work order was issued by the fourth respondent on 10.10.2014 to the petitioner and others. The Overseas Supervisor and Assistant Engineer after inspecting the progress of construction done by the petitioner reported on 23.02.2015 that the petitioner instead of constructing the building from the ground level has constructed the same from the lintel level by demolishing the earlier construction. Thus, condition Nos.11 and 16 of



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the work order have been breached. The stability of the building could not be assessed and that is why, the impugned order came to be passed.

He would also add that the very purpose of the scheme was to ensure that the below poverty line families who are either houseless or having inadequate housing facility construct safe and durable shelter under the programme. Inasmuch as the conditions have been violated, the impugned order came to be passed. He would also add that the petitioner had played fraud on the department and therefore, this Court ought not to interfere in favour of the petitioner. He called upon this Court to sustain the impugned order and dismiss the writ petition.

5.I carefully considered the rival contentions and went through the materials on record. The petitioner was chosen as a beneficiary under the housing scheme. He was assigned with an I.D. number also. The petitioner states that only after the issuance of the work order, he commenced the construction. This may not be correct. There is lack of clarity in this regard. The work order was admittedly issued on 10.10.2014. But according to the petitioner, on 07.08.2014, inspection was done when the construction had come upto the lintel level. I wanted



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to know from the learned Additional Government Pleader as to when the first installment was released. Mr.Jeyaraman, Deputy Block Development Officer is present in this Court to assist the learned Additional Government Pleader. The details are presently not available. However, in the work order dated 10.10.2014, there is a reference to the proceedings of the District Collector dated 19.02.2014. The Deputy Block Development Officer (Adi Dravida Welfare) has recommended on 13.09.2014. It is quite possible that the construction work had commenced some time in July 2014. Paragraph No.4 of the affidavit filed in support of the writ petition reads as follows:-

“4.I humbly submit that as per the said guideline 1st installment was released along with the sanction order. on 07.08.2014 the inspection officer one Nageshwaran came and inspected out house at the lintel level. All gauges and other strategy were used to inspect my house and photos were also taken. Thereafter, it is understood that he filed his inspection report and being satisfied 2nd installment funds were released and therefore I advanced with the construction up to roof level. On 27.10.2014 also the inspection officer Nageshwaran came and inspected out house at the roof level and photos were also taken. This time too based on his inspection report no remarks



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were communicated to me. It is understood that the inspection and photos were uploaded in their official website namely Awaas Soft.”

6.In the counter affidavit, these averments have not been properly controverted. Now the question arises whether the work order issued in favour of the writ petitioner could have been cancelled on the ground of violation of the terms and conditions. The work order states that funds will be released at four stages. They are as follows:-

- (a) For carrying out earth work.
- (b) For carrying out work upto lintel level
- (c) For carrying out work upto roofing level
- (d) After completion of the entire construction work.

7.Admittedly in this case, the installments have been released in respect of first two stages. The only allegation made against the petitioner is that he had demolished the earlier construction and that the present house was constructed on an existing foundation. If that be so, I fail to understand as to how the second installment amount was released.



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It is not the case of the respondents that their officials have taken bribe money from the petitioner and deliberately overlooked the breach of the terms and conditions. Therefore, having released the funds for stages one and two, it is not open to the respondents to now claim that the petitioner had not even carried out any earth work. When the scheme contemplates that relief of each installment should be preceded by site visit by the designated official and verification of work details, having released funds for the first two stages, the authority cannot be now allowed to do a “U” turn.

8. There is yet another fundamental flaw. The impugned order does have civil consequences. Therefore, notice should have been issued to the petitioner before issuing cancellation order. Notice should have been issued contemporaneously ie., as and when the breach of the work order was noticed or discovered. The authorities cannot allow the beneficiary to complete the construction and thereafter impute the beneficiary with breach of the terms and conditions. The approach of the fourth respondent is utterly incorrect and it is in violation of principles of natural justice. The order impugned in this writ petition is set aside. The



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respondents are directed to release the balance payment. Considering the facts and circumstances of the case, the question of awarding interest does not arise. The balance amount shall be released within a period of eight weeks from the date of receipt of a copy of this order.

9.This writ petition is allowed accordingly. No costs.
Consequently, connected miscellaneous petition is closed.

31.07.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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