



W.P.(MD)No.644 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :11.04.2023

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.(MD)No.644 of 2016

M.Alagu

... Petitioner

Vs.

1.The District Collector,
Madurai District,
Madurai.

2.The Block Development Officer,
(Village Panchayats),
Kallikudi Panchayat Union,
Kallikudi, Madurai District.

3.The Panchayat President,
Chithur Village Panchayat,
Kallikudi Panchayat Union,
Madurai District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, by calling for the records pertaining to the impugned memo in Na.Ka.No.3345/14/Thi4 dated 26.12.2014 issued by the second respondent and quash the same as illegal, invalid and against the constitutional safeguards and consequentially direct the second respondent to release the funds as per Indira Awas Yojana



W.P.(MD)No.644 of 2016

Scheme to the house in the land bearing patta No.1784 situated at the third respondent panchayat constructed by the petitioner in the financial year of 2008-2009.

For Petitioner :Mr.K.Kannan

For Respondents :Mrs.D.Farjana Ghoushia
Special Government Pleader for R1 & R2

:No appearance for R3

ORDER

The petitioner assails an order dated 26.12.2014 of the second respondent by which the request of the petitioner for sanction of funds under the Indira Awas Yojana Scheme was rejected.

2. The petitioner states that she belongs to the below the poverty line (BPL) category. Therefore, being eligible for the sanction of funds for the construction of a house under the above mentioned scheme, she applied for such sanction. According to the petitioner, seven eligible beneficiaries, including the petitioner, were selected but the petitioner was not informed that she was a beneficiary. Although funds were sanctioned for the financial



W.P.(MD)No.644 of 2016

year 2009-2010, the petitioner states that she became aware that she was a beneficiary only on or about 06.09.2011. Therefore, the petitioner applied under the Right to Information Act and received information that she was one of the beneficiaries in the financial year 2009-2010. This was followed by a representation dated 07.10.2014. Since such representation did not elicit a response, the petitioner filed W.P.(MD).No.17851 of 2014 before this Court. The said writ petition was disposed of by order dated 06.11.2014 by directing the first respondent therein to consider the petitioner's representation dated 07.10.2014. Pursuant thereto, the impugned order dated 26.12.2014 was issued. By such order, the petitioner was informed that the petitioner did not construct a house pursuant to the work order issued on 27.02.2009 and that, therefore, the request for financial assistance is rejected. Hence, the present writ petition.

3. Learned counsel for the petitioner submits that the petitioner was discriminated against in view of enmity between the petitioner's family and the third respondent. He further submits that the petitioner was constrained to construct the house in the year 2014 after following up repeatedly with the respondents for disbursement of funds.



W.P.(MD)No.644 of 2016

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4. Learned Special Government Pleader produced the work order dated 27.02.2009 and submitted that the petitioner was required to complete the construction on or before 31.05.2009. She further submitted that the said work order was communicated to the petitioner, but that an acknowledgement was not received from the petitioner. Because the petitioner did not undertake and complete the construction in terms of the work order dated 27.02.2009, learned Special Government Pleader submits that the petitioner is not entitled to any relief. In this connection, she also placed for my consideration a communication dated 29.03.2023, which was addressed by the Village Administrative Officer to the inquiry officer. With reference thereto, she submitted that an inquiry was conducted in relation to the petitioner's claim on 13.12.2022, 23.12.2022, 24.01.2023, 24.02.2023, and 08.03.2023. On the basis of such inquiry, she submits that it was concluded that the contention of the petitioner that she did not receive the work order and that, therefore, the work could not be undertaken cannot be accepted. Learned Special Government Pleader also submits that the relevant scheme is no longer in force. After sanctioning and disbursing the amount payable to the other six beneficiaries under the scheme, the



W.P.(MD)No.644 of 2016

remaining sum of Rs.59,209/- was remitted to the relevant bank account, as specified in the communication dated 29.03.2023. She also points out that the relevant scheme account was closed. In these circumstances, she submits that it is not possible to consider the petitioner's claim at this juncture.

5. From the rival contentions, it is evident that the petitioner was selected as a beneficiary under Indira Awas Yojana Scheme. As per the work order produced in this connection, it appears that the petitioner was selected as a beneficiary in the financial year 2008-2009. The work order dated 27.02.2009 directs the petitioner to undertake and complete the work on or before 31.05.2009. Although learned Special Government Pleader submits that the work order was communicated to the petitioner, there is no evidence that the petitioner received the same. In addition, the communication dated 28.10.2009 from the Village Administrative Officer to the Panchayat Engineer and Panchayat President indicates that the petitioner was selected as a beneficiary under BPL No.294 for the financial year 2009-2010 and not for the year 2008-2009. The communication dated 02.01.2013 from the Village Administrative Officer under the Right to Information Act is also to the effect that the sanction was for the year 2009-2010. Thus, there is clear



W.P.(MD)No.644 of 2016

WEB COPY

discrepancy and in consistency as between the work order dated 27.02.2009 and the other communications. More importantly, as stated earlier, proof of service of the work order on the petitioner is not available.

6. The work order also indicates that no advance would be paid, thereby indicating that the beneficiary is entitled to commence work in relation to the construction of the house upon receipt of the work order. In this case, the petitioner states that the house was constructed in the year 2014 after unsuccessfully following up with the respondents for sanction and disbursement of the funds. Learned Special Government Pleader relied on the communication dated 29.03.2023 and pointed out that an inquiry was conducted on various dates by putting the petitioner on notice. The said communication also does not indicate as to when and how the petitioner was informed about the work order.

7. In these circumstances, the impugned order cannot be sustained. Although it is submitted that the relevant scheme is no longer in operation, other housing schemes such as the Pradhan Mantri Awas Yojana are currently in operation. In the absence of evidence that the work order



W.P.(MD)No.644 of 2016

was served on the petitioner, the petitioner cannot be penalized for any lapses by the respondents in this regard.

8. At the same time, it should be recognized that a positive mandamus cannot be issued in a matter of this nature. Consequently, the first respondent is directed to re-consider the request of the petitioner for sanction of funds in respect of the house already constructed by him. Such request may be considered under the Pradhan Mantri Awas Yojana Scheme or any other scheme currently in force. After providing a reasonable opportunity to the petitioner, the request of the petitioner shall be disposed of by a reasoned order within a period of two months from the date of receipt of a copy of this order.

9. W.P.(MD).No.644 of 2016 is disposed of on the above terms without any order as to costs.

11.04.2023

1/2

NCC :Yes/No

Internet :Yes/No

Index :Yes/No

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W.P.(MD)No.644 of 2016

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W.P.(MD)No.644 of 2016

SENTHILKUMAR RAMAMOORTHY, J.

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W.P.(MD)No.644 of 2016

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1/2