



W.P.No.9521 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 22..07..2024

Coram

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Writ Petition No.9521 of 2024

and

W.M.P.Nos.10527 & 10528 of 2024

- 1.Banumathi
- 2.K.Elumalai
- 3.M.Muthuraman

..... Petitioners

-Versus-

- 1.The Commissioner of Land Administration,
Chepauk, Chennai 600 005.
- 2.The District Collector,
Tiruvannamalai District,
Tiruvannamalai.
- 3.The Tahsildar,
Chengam Taluk,
Chengam, Tiruvannamalai District.

..... Respondents

Petition filed under Article 226of the Constitution of India, praying to issue a Writ of Certiorari calling for the entire records relating to the order dated 27.09.2023 made in Proc.No.G2/24451/2010 on the file of the 1st



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respondent herein confirming the order dated 21.08.2010 made in Na.Ka.No.A2/28872/2010 on the file of the 2nd respondent and to quash the same.

For Petitioner (s) : Mr.C.Munusamy

*For Respondent (s) : Mr.S.J.Mohamhed Sathik,
Government Advocate for RR1
to 3*

ORDER

This writ petition challenges the common order dated 27.09.2023 made by the 1st respondent in his proceedings No.G2/24451/2010 confirming the common order dated 21.08.2020 made by the 2nd respondent in his proceedings in Na.Ka.No.A2/2887/2010 cancelling the orders of assignment made in favour of (i) Mrs.Banumathi in respect of 0.81.0 Hectares of agricultural land comprised in S.No.49/4 vide assignment order dated 15.06.2007; (ii) Elumalai in respect of 0.81.0 Hectares of agricultural land vide assignment order dated 15.06.2007; and (iii) Muthuraman in respect of 0.70.0 Hectares of agricultural land vide assignment order 15.12.2009; situate at Aswanagasuranai village, Chengam Taluk, Tiruvannamalai District.

2. The brief facts leading to the filling of the present writ petition are as under:-



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(i) The petitioners belong to landless poor agricultural labour families.

(ii) During the budget speech made in the floor of Assembly 2006-2007, the Government of Tamil Nadu announced that poramboke waste land of the Government would be developed into cultivable land and distributed to poor landless farmers two acres each. Accordingly, a Special Scheme for allotment of land to landless poor labour families, 2006 was floated by the Government of Tamil Nadu.

(iii) The petitioners were identified as the eligible beneficiaries under the said Scheme and accordingly, they were allotted lands as mentioned above by the individual orders of the 3rd respondent. The petitioners were in possession and enjoyment of the lands assigned to them by cultivating the lands.

(iv) While so, all of a sudden, the assignments made in favour of the petitioners came to be cancelled by the 2nd respondent without any proper inquiry by his order dated 21.08.2010. On appeals preferred by the petitioners, the 1st respondent by order dated 27.09.2023, confirmed the order of the 2nd respondent.

(v) Challenging the order of the 1st respondent confirming the order passed by the 2nd respondent cancelling the assignment orders, the petitioners are before this court with the present writ petition.



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3. A counter affidavit has been filed by the 1st respondent opposing the writ petition and *inter alia* contending that during the public grievance day, a petition was made by Aswanagasuranai village public alleging that lands in question were assigned to the petitioners without following rules and requesting for cancellation of the assignments. Pursuant to the said petition, a report was submitted by the Revenue Divisional Officer, Tiruvannamalai in his proceedings in Na.Ka.A4/3128/2010 dated 15.06.2010. Based on such report, a site inspection and inquiry were conducted by the District Revenue Officer, Tiruvannamalai. Thereafter, the District Collector, Tiruvannamalai, by his order dated 21.08.2010 cancelled the assignment made in favour of the petitioners and the lands were restored as “Unassessed Waste”.

4. The 1st respondent further contended that as the lands in question are situate within the prohibited distance of 50 meters radius from the adjoining quarry and the lands contain a stone known as charnockite which is a valuable type of rock found in certain geological formations and there is a possibility of quarrying almost 93000 cubic meters of stones in the lands. With respect to land in S.No.49/1, quarries were functioning on the same and the quarries have been temporarily suspended pursuant to the orders of the Government in order to maintain the Narayanaswamy Temple Hall ancient inscription by the



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Archaeology Survey of India. The lands in S.Nos.49/3, 49/4 and 49/5 are classified as “Tharisu” and there are mineral wealth present in the subject lands more particularly, Charnockite type of stones are found in the lands in question.

5. Heard both sides.

6. The learned counsel for the petitioners would submit that the petitioners were identified as eligible beneficiaries under the Scheme and they were assigned lands for agricultural purposes. The petitioners were cultivating the lands as per the conditions attached to the assignments. However, in order to accommodate stone quarries, the assignments were cancelled without being asked to show cause or without being given any opportunity of hearing to the petitioners. No proper inquiry was conducted before cancelling the assignments and thereby principles of natural justice have not been followed by the authorities. In the counter affidavit, it has been clearly admitted that stones quarries were functioning on the subject lands.

7. The learned Government Advocate appearing for the respondents would on the other hand contend that assignments were made without following the rules and the assignments were cancelled on a petition from the villagers taking note of the fact that there are mineral wealth on the subject lands and therefore, action was initiated under RSO15 C 38(xi).



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8. This court has considered the rival submissions and perused the records carefully.

9. It seems that the revenue officials, in order to please the government, projected as if the scheme of distribution of 2-acre wasteland to landless or poor agricultural labour families announced on the floor of the assembly was being properly implemented, identified the beneficiaries for the sake of publicity and also for statistical purposes, and, after some time, by adopting different ways and means, started cancelling the assignments made in favour of the poor agricultural labour families like the petitioners. It is nothing but a breach of a promise made by the government.

10. It is not in dispute that the petitioners belonged to landless poor agricultural labour families. They were identified as eligible beneficiaries under the scheme of "distribution of 2 acre wasteland to landless poor Agricultural labour families" and accordingly the petitioners 1 & 2 were allotted the subject lands by assignment orders 15.06.2007 while the 3rd petitioner was assigned land by order dated 15.12.2009. However, those assignments were cancelled by the 2nd respondent by a common order dated 21.08.2010 based on the petition from the villagers of Aswanagasuranai village. The orders cancelling the assignments were passed mainly on the ground that there are mineral wealth in the subject land and the assignments were made without



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adhering to the rules. That apart, the subject lands situate within the 50 meters radius of the prohibited area of the stone quarries. Aggrieved by the said orders, the petitioners preferred appeals to the 1st respondent, who, in turn, by his common order dated 27.09.2023 dismissed the appeals and thereby confirmed the order of the 2nd respondent.

11. The fact that there were stone quarries functioning nearby the subject lands is not in dispute. Thus the arguments advanced by the learned counsel for the petitioners that only in order to facilitate the stone quarry operations, the impugned orders came to be passed cannot be simply brushed aside. The admission made by the respondents that there were stone quarries functioning on the lands nearby the subject lands and the assignments made in favour of the petitioners were cancelled only on the petition from the villagers of Aswanagasuranai village. These facts would in fact countenance the arguments of the learned counsel of the petitioners that orders cancelling the assignments were passed not merely on the ground that there were violation of rules in the assignments but for some other purpose as well. Yet, the order of the 3rd respondent which came to be confirmed would show that no proper inquiry whatsoever was conducted and no opportunity of hearing was afforded to the petitioners. Therefore, the order passed by the 2nd respondent which came to be



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confirmed by the 1st respondent suffers from violation of principles of natural justice and therefore, the same cannot be sustained in the eye of law.

12. Thus, the order passed by the 1st respondent confirming the order of the 2nd respondent and the order of the 2nd respondent cancelling the assignments are set aside and the matter is remitted to the 2nd respondent for fresh consideration. The 2nd respondent is directed to determine the issue of cancellation of assignments of lands made in favour of the respective petitioners independently after giving adequate opportunity of hearing, including personal hearing and upon inquiry, if the 2nd respondent finds that the lands contain valuable mineral wealth and the lands cannot be assigned, he shall pass appropriate orders.

Since the petitioners were found to be eligible beneficiaries under the Scheme and were assigned lands for agricultural purpose and the assignments were subsequently cancelled, the Government is duty bound to identify some other lands through the District Collector and take steps to see that some other alternative lands are assigned to the petitioners as per the law.

In the result, the writ petition is allowed to the extent indicated above. The 2nd respondent shall pass appropriate orders as directed above within a period of two months from the date of receipt of copy of this order.



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In any event, if the 2nd respondent has found that the lands in question could not be re-assigned to the petitioners for the reasons to be recorded by him, the Government shall take all possible steps through the 2nd respondent District Collector to assign alternative lands to the petitioners concerned under the Scheme of Distribution of 2 Acres of Wasteland to landless / poor Agricultural Labour Families as expeditiously as possible .

There shall be no order as to costs. Consequently, connected WMPs are closed.

Index : yes / no
Neutral Citation : yes / no
Speaking / Non Speaking Order
kmk

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