



WEB COPY



W.P. No. 11817 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2024

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 11817 of 2020

and

W.M.P. Nos. 14528 and 21952 of 2020

M/s. Cheran Hotels
Represented by its Managing Partner
P.N.Kamalakannan
No. 15-A, Erode Road
Perundurai – 638 052
Erode District.

... Petitioner

-VS-

1. State Industries Promotion Corporation
(A Govt of Tamilnadu Undertaking)
No. 19-A, Rukmani Lakshmipathy Road
Post Box No. 7223
Egmore, Chennai – 600 008.

2. The Principal Secretary to the Government,
Industrial Department.

*(R-2 suo-motu impleaded vide order dated 07.10.2020 made
in W.M.P. No.14528 of 2020 in W.P. No. 11817 of 2020)*

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, directing the Respondent to allot Plot J-113 (Survey No.396 Part) to the extent of 7.24 acres, located at SIPCOT Growth Centre, Perundurai, Erode District in favour of this Petitioner.

For Petitioner : Mr. P.J.Rishikesh



WEB COPY



W.P. No. 11817 of 2020

For Respondents : Mr. M.P.Rajavelayutham (R1)

Mr. B.Vijay, AGP (R2)

ORDER

Heard Mr. P.J.Rishikesh, Learned Counsel for the Petitioner, Mr. M.P.Rajavelayutham, Learned Counsel appearing for the First Respondent and Mr. B.Vijay, Learned Additional Government Pleader appearing for the Second Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner was allotted Plot No. J-113 (Survey No. 396 pt.) measuring an extent of 7.24 acres situated in SIPCOT Industrial Growth Centre, Perundurai by Proceedings REF. No. DI/SIGC-P/Cheral Hotel/2019 dated 21.06.2019 by the First Respondent for setting up a Hotel, which was challenged by M/s. Aravind Hotels in W.P. No. 27807 of 2019 before this Court. In the order dated 01.10.2019 (as modified by Order dated 07.11.2019 in W.M.P. No. 31344 of 2019) disposing that Writ Petition, it has been recorded that the allotment made in favour of the Petitioner has been cancelled and it has been decided to invite fresh offers as per the Government norms and the procedure henceforth adopted by the First Respondent and allot the land in



W.P. No. 11817 of 2020

accordance with the tender procedure and law governing and it has been clarified that the Petitioner along with the said M/s. Aravind Hotels may participate in that tender.

3. The Petitioner thereafter claims to have made an online application in Reference POPR19200101 dated 08.10.2019, but had not received any intimation despite having attended the allotment committee meeting held on 15.10.2019 conducted by the First Respondent. In that backdrop, this Writ Petition has been filed seeking a direction to the Respondent to allot the said plot in its favour.

4. The First Respondent has filed Counter-Affidavit dated 03.11.2020, which reads as follows:-

“10. This Respondent respectfully submits that with regard to the averments raised in para 9 to 12, it is submitted that Plot No.J-113 comprised in Survey No. 396 (part) measuring 7.24 acres. This Respondent respectfully submits that a Society by name, Konguvellala Kalvi Niruvanam, claiming to have purchased lands in S. No. 394 and 397 for the purpose of running educational institutions, had requested the Government



W.P. No. 11817 of 2020

to exempt the lands comprised in Survey Nos. 395 & 396 (part) from the acquisition proceedings, since those lands are adjacent to their lands.

11. *This Respondent respectfully submits that the Niruvanam vide their representation, stating that they are running Konguvellar Matriculation Higher Secondary School, which was started in the year 1982 with 135 children and now, they have 3,436 children after 37 years and functioning well and now, they are running in a rented building located at Perundurai-Chennimalai road at a distance of 50 meters from daily market, which belonged to Perundurai Arulmigu Sellandiamman Temple under the control of HR & CE Department, on payment of rent at Rs.85,796/- per month, requested to exempt the lands in Survey Nos. 394, 395, 396 & 397 from the land acquisition proceedings to enable them to utilize the same for educational purpose.*

12. *This Respondent, respectively submits that it was the Kongu Vellalar Kalvi Niruvanam who had issued NOC at the*



W.P. No. 11817 of 2020

WEB COPY

request of this Respondent to develop a portion of the land comprised in Survey No. 397, so as to provide an approach road connecting to National Highway 47 (Salem-Coimbatore) from the scheme area, otherwise this Respondent could not have obtained de-notification of SEZ area and made allotments of lands to the tune of 60 acres to the companies.

13. *This Respondent respectfully submits that considering the fact that Kongu Vellalar Kalvi Niruvanam had offered to provide the required extent of land in Survey No. 397 for formation of approach road to connect the scheme area with NH 47 (Salem – Coimbatore) which enabled this Respondent to obtain de-notification of the SEZ area from the concerned authorities, which ultimately paved way for this to allot about 60 acres of land to the companies, and also considering the fact that the establishment of an educational institution, will act as a support infrastructure for this Perundurai Industrial Growth Centre, this Respondent has recommended to the Government for exemption of the lands comprised in Survey Nos. 395 (part), 394 & 397 of Perundurai Village from acquisition proceedings.*



W.P. No. 11817 of 2020

WEB COPY

In the above circumstances, this Respondent is not in a position to consider any allotment of land in the above said fields viz., lands comprised in Survey Nos. 395, 396(part), 394 & 397 of the said Village, which have been recommended for exemption from acquisition proceedings. However, this Respondent shall consider allotment of any other land to the Petitioner, subject to availability of land in SIPCOT Industrial Growth Centre, Perundurai, as per its usual terms and conditions of allotment.”

The said contentions of the First Respondent, which are well founded, deserve acceptance. The Petitioner neither has any enforceable right to claim any allotment of the public property from the First Respondent, nor the First Respondent has any legal obligation to grant the same to the Petitioner. In this backdrop, reference may be made to the ruling of the Hon'ble Supreme Court of India in **Director of Settlements, A.P. -vs- M.R. Apparao** [(2002) 4 SCC 638], wherein it has been expounded as follows:-

"17.One of the conditions for exercising power under Article 226 for issuance of a mandamus is that the Court must come to the conclusion that the aggrieved person has a legal right,



W.P. No. 11817 of 2020

WEB COPY

*which entitles him to any of the rights and that such right has been infringed. In other words, existence of a legal right of a citizen and performance of any corresponding legal duty by the State or any public authority, could be enforced by issuance of a writ of mandamus. “Mandamus” means a command. It differs from the writs of prohibition or certiorari in its demand for some activity on the part of the body or person to whom it is addressed. Mandamus is a command issued to direct any person, corporation, inferior courts or Government, requiring him or them to do some particular thing therein specified which appertains to his or their office and is in the nature of a public duty. A mandamus is available against any public authority including administrative and local bodies, and it would lie to any person who is under a duty imposed by a statute or by the common law to do a particular act. In order to obtain a writ or order in the nature of mandamus, the applicant has to satisfy that he has a legal right to the performance of a legal duty by the party against whom the mandamus is sought and such right must be subsisting on the date of the petition (**Kalyan Singh -vs- State of U.P.** (AIR 1962 SC 1183)). The duty that may be*



W.P. No. 11817 of 2020

*enjoined by mandamus may be one imposed by the
Constitution, a statute, common law or by rules or orders
having the force of law...."*

As such the Petitioner cannot be entitled to the relief sought in the Writ Petition.

5. Though obvious, it is clarified that refusal by the Court to entertain this Writ Petition shall not be construed as precluding the Petitioner, if he is otherwise eligible and not disqualified, to participate in any tender or public auction whenever conducted for lease of any other public property following the prescribed procedure.

In the result, the Writ Petition is dismissed with the aforesaid observations. Consequently, connected Miscellaneous Petitions are closed. No costs.

05.01.2024
1/2

Index: Yes/No
NCC: Yes/No

Note: Issue order copy by 22.05.2024.

Maya/Gsa



W.P. No. 11817 of 2020

To

WEB COPY

1. The State Industries Promotion Corporation
(A Govt of Tamilnadu Undertaking)
No. 19-A, Rukmani Lakshmipathy Road
Post Box No. 7223
Egmore, Chennai – 600 008.
2. The Principal Secretary to the Government,
Industrial Department.



WEB COPY



W.P. No. 11817 of 2020

P.D. AUDIKESAVALU, J.

Maya/Gsa

W.P. No. 11817 of 2020

05.01.2024

1/2