



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.01.2024

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.14999 & 15003 of 2020

and

**W.M.P.Nos.18666, 18667, 18669, 18671,
18672, 18675 & 18676 of 2020**

1.M/s. TNHB Patinnapakkam
M.I.G. Residential Welfare Association,
Rep. by its President
Kavignar K.Amudhon,
Having Office at
J-5, MIG Block, Foreshore Estate,
Chennai – 600 028.

2.Kavignar K.Amudhon,
Having Office at
J-5, MIG Block, Foreshore Estate,
Chennai – 600 028.

... Petitioners
in 2WPs

Vs.

1.Tamil Nadu Housing Board,
Represented by its Managing Director,
Tamil Nadu Housing Board,
Nandanam, Chennai – 600 035.

2.The Executive Engineer,
Tamil Nadu Housing Board,
Pattinapakkam Division,
Nandanam, Chennai – 600 035.

... Respondents
in 2WPs



Prayer in WP.No.14999 of 2020: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records relating to the Circular No. Va.Va.P.1/17484/2018, dated 29.07.2020 issued by the 1st respondent and quash the same.

Prayer in WP.No.15003 of 2020: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records relating to the Circular No. Va.Va.P.1/17484/2018, dated 24.01.2020 issued by the 1st respondent and quash the same.

For Petitioners : Mr.Mr.Niranjana Rajagopalan
For M/s.G.R.Associates
(in 2WPs)

For Respondents : Mr.D.Veerasekaran
Standing Counsel
[For TNHB]
(in 2WPs)

COMMON ORDER

The circular issued by the Tamil Nadu Housing Board dated 29.07.2020 and 24.01.2020 are under challenge in these writ proceedings.

2. The 1st petitioner is the Association of the residents and the 2nd petitioner is a resident of Housing Board Flat No.J-15, MIG Block, Foreshore



Estate, Chennai – 600 028.

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3. These writ proceedings are initiated challenging the enhancement of the rent made by the Tamil Nadu Housing Board to its tenants residing in the Tamil Nadu Housing Board apartments situated at Foreshore Estate, Chennai – 600 028.

4. The contentions of the petitioners are that the Government has passed an order in G.O.Ms.No.69 of 2010 and the respondents / Tamil Nadu Housing Board passed a resolution on 30.10.2009, enhanced the rent at the rate of 10% every year. The State Government reduced the said enhancement from 10% to 5% per annum. Accordingly, the enhancement per year from 2019 stood as Rs.4.88/- per Sq.ft. While so, the Tamil Nadu Housing Board passed a resolution followed by the Circular dated 24.01.2020 enhancing the rent on par with the Government employees staying in the Tamil Nadu Housing Board flats at Rs.7.31 per Sq.ft. and another 60% of the value, which is 150% more than the existing rate. The said circular came to be challenged in these writ petitions.

5. The learned counsel for the petitioners made a submission that the



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enhancement was exorbitant and more than 100% which is arbitrary. The enhancement made through the impugned Circular is running counter to the earlier resolution passed by the Tamil Nadu Housing Board and the Government. It is contended that the 'State' cannot arbitrarily enhance the rent, which is in violation of the judgment of the Hon'ble Supreme Court of India. No opportunity to the tenants residing in the Tamil Nadu Housing Board apartments were provided and therefore, the impugned enhancement is in violation of the principles of natural justice. The enhancement of rent applicable to the Government employee as per the G.O.Ms.No.118, cannot be applied to the general public, who all are in occupation of the Tamil Nadu Housing Board flats. General public from various categories are in occupation of the Tamil Nadu Housing Board buildings and enhancing the rent on par with Government employees would cause prejudice to the interest of the in tenants in occupation of the Tamil Nadu Housing Board building.

6. The respondents objecting the contentions raised by the petitioners have stated that Circulars dated 24.01.2020 and 29.07.2020 was issued by the respondents based on the Government order issued in G.O.Ms.No.118 dated 04.07.2017. Separate notices have been issued to various allottees and the



enhancement of rent was made pursuant to the policy decision taken. The Circulars which are impugned in these writ petitions are internal circulars and therefore, writs are not maintainable.

7. The learned Standing Counsel appearing on behalf of the respondents/Tamil Nadu Housing Board urged this Court by stating that the 1st petitioner is an Association and hence, these writ petitions are not maintainable. It is an individual cause, since it is a contractual obligation between the Tamil Nadu Housing Board and the occupants. The allotments are made to the individuals and rents are fixed as per the area leased out and therefore, the Association filing a writ petition is not maintainable. Enhancement of rent made by the Government in G.O.Ms.No.118 dated 04.07.2017 was adopted by the Tamil Nadu Housing Board considering the fact that there was a considerable hike in the market rent in that particular area. Foreshore Estate is situated at the heart of Chennai city and the market rent is higher than the rent, which was fixed by the Tamil Nadu Housing Board to its tenants. Therefore, the Board felt that the enhancement is inevitable and accordingly, issued circulars enhancing the rent.



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8. Pertinently, the learned Standing Counsel for the Tamil Nadu Housing Board reiterated that the Tamil Nadu Housing Board building in Foreshore Estate are in dilapidated condition and most of the blocks were already demolished by the Board. Few occupants are there on account of an interim order of status quo granted in the present writ proceedings. The buildings are not in safe condition and unfit for dwelling purposes. The Tamil Nadu Housing Board had already issued warning to the occupants to vacate the premises by settling the rental arrears. By virtue of the interim order of status quo, these occupants are continuing without even paying the enhanced rent as demanded by the Tamil Nadu Housing Board.

9. Pertinently, the very same issue regarding enhancement of the rent by the Tamil Nadu Housing Board to its tenants are considered no more *res integra*. The issues were already adjudicated by the Hon'ble Division Bench of this Court in W.A.Nos.535, 131, 133, 138, 140 and 141 of 2019 dated 22.04.2019. The relevant portion of the judgment reads as under:

“6. The learned Standing Counsel for the respondent-TNHB has brought to our notice that the Government servants who have been allotted quarter under the Tamil Nadu Government Rental Housing Scheme (TNGRHS) are paying three times more than the rent payable by the appellants who



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have secured allotments under “Public quota”. Furthermore, it is the submission of the learned counsel that all the appellants are in arrears of rent and they have not paid the increase with effect from 1993 onwards. Further, the stand of learned Standing Counsel is that there is no discrimination and all the public quota allottees have been uniformly informed about the increase in rent and considering the location of the property and other facilities in an around the area, the increase in rent is reasonable, just and proper.

7. Assuming the appellants had taken on rent a private accommodation, the Landlord is entitled to revise the monthly rent and is entitled to seek for fair rent. The position becomes no different merely because the State Government or the Tamil Nadu Housing Board is the owner of the property. The appellants have enjoyed Government accommodation all these years and they are bound to pay the rent which has been found to be reasonable by the learned Single Bench which also appeals to us and we find no ground to interfere with the order and direction issued by the learned Single Bench.

8. With regard to the plea of discrimination raised by the appellants, we direct the respondents to uniformly apply the Government Order to all the 'public quota' allottees and there shall be no discrimination in implementing the revised rent. The appellants may be granted reasonable time to settle the arrears subject to the condition that they start paying increased rent prospectively.”



10. The respondents have furnished the details regarding the irregularities committed by the original allottees and the present condition of the apartments, which all are in dilapidated condition and the details are as follows:

***“Tamil Nadu Housing Board
Foreshore Estate Division
96 Boards Rental Scheme – Allottee Status***

<i>STATUS</i>	<i>Nos.</i>
<i>Vacant</i>	<i>29</i>
<i>Sealed</i>	<i>06</i>
<i>Sublet</i>	<i>20</i>
<i>Legal Heir</i>	<i>01</i>
<i>Other Allottees</i>	<i>40</i>
<i>Total</i>	<i>96</i>

<i>RENTAL DETAILS</i>			
<i>BUILDING TYPE</i>	<i>AREA Sq.ft.</i>	<i>OLD RENT Rs.</i>	<i>NEW RENT Rs.</i>
<i>TYPE – A</i>	<i>1350</i>	<i>6,596/-</i>	<i>15,943/-</i>
<i>TYPE – B</i>	<i>950</i>	<i>4,644/-</i>	<i>11,219/-</i>
<i>TYPE – C</i>	<i>650</i>	<i>2,688/-</i>	<i>6,496/-</i>

11. The occupants have not paid the enhanced rent and therefore, they are not entitled to continue to be in occupation of the Board's apartments. The rental arrears shall be recovered from the tenants.



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12. Considering the fact that the issues were already decided by the Hon'ble Division Bench in common judgment dated 22.04.2019 in writ appeal in W.A.Nos.535 of 2019 and etc., (stated *supra*), the present writ petitions deserve to be rejected. The enhancement of rent was made considering the hike in the market rent prevailing in Chennai city and based on the Government orders. Further, the buildings are also in dilapidated condition and not fit for dwelling purpose. The occupants are residing at their own risk and some of the flats were sealed and some sublet and the allottees have not paid the enhanced rent.

13. The respondent / Board has informed that the apartments are in dilapidated condition and not fit for dwelling purposes. In any event, the enhancement of rent cannot be found to be arbitrary or illegal and the power to enhance the rent vest with the Tamil Nadu Housing Board has been exercised based on the Government order and thus, the actions of the Board are well within its powers. The Hon'ble Division Bench of this Court confirmed the said decision taken by the Board for enhancing the rent and the said judgment is binding on this Court.



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14. For all these reasons, these Writ Petitions stand dismissed. The petitioners / occupants are directed to settle the arrears of rent within a period of two (2) weeks from the date of receipt of a copy of this order, failing which the Board is at liberty to initiate all appropriate actions to evict the petitioners and to recover the arrears of rent due to the Tamil Nadu Housing Board. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

04.01.2024

Jeni

Index : Yes / No

Neutral Citation : Yes / No

Speaking order / Non-speaking order



To

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S.M.SUBRAMANIAM, J.

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