



Writ Appeal Nos.1859, 1860 , 1863 & 1866 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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RESERVED ON
09.07.2024

PRONOUNCED ON
08.08.2024

CORAM

THE HON'BLE MR. JUSTICE D. KRISHNAKUMAR, ACTING CHIEF JUSTICE
AND

THE HONOURABLE MR. JUSTICE K.KUMARESH BABU

Writ Appeal Nos.1859, 1860, 1863 & 1866 of 2022
and C.M.P.Nos.13626, 13628, 13641& 13655 of 2022

J.Mohan ... Appellant in W.A.No.1859 of 2022
R.Tamilarasi ... Appellant in W.A.No.1860 of 2022
V.Arulmurugan ... Appellant in W.A.No.1863 of 2022
A.Parthasarathy ... Appellant in W.A.No.1866 of 2022

Vs

1.District Collector,
Namakkal,
Namakkal District.

2.District Employment Exchange Officer,
Namakkal,
Namakkal District.

... Respondents in all W.As.

PRAYER in W.A.No.1859 of 2022:- Writ Appeal has been filed under Clause 15 of Letter Patent to set aside the order dated 01.12.2021 made in W.P.No.22584 of 2011 and pass such further order.



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PRAYER in W.A.No.1860 of 2022:- Writ Appeal has been filed under Clause 15 of Letter Patent to set aside the order dated 01.12.2021 made in W.P.No.22586 of 2011 and pass such further order.

PRAYER in W.A.No.1863 of 2022:- Writ Appeal has been filed under Clause 15 of Letter Patent to set aside the order dated 01.12.2021 made in W.P.No.22588 of 2011 and pass such further order.

PRAYER in W.A.No.1866 of 2022:- Writ Appeal has been filed under Clause 15 of Letter Patent to set aside the order dated 01.12.2021 made in W.P.No.22587 of 2011 and pass such further order.

For Appellant in all W.As : Mr.G.Sankaran
Senior Counsel
for Mr.J.Jayamalan

For Respondents in all W.As: Mr.J.Ravindran
Additional Advocate General
Assisted by
Mr.V.Manoharan
Additional Government Pleader

COMMON JUDGMENT

(Judgment of the Court was made by Mr.K.KUMARESH BABU.,J.)

These Intra-Court Appeals have all been filed by the unsuccessful



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appellants wherein their challenge to the order made by the first respondent cancelling their Priority Certificate issued to them to claim priority in public employment.

2. These Intra-Court Appeals are taken together as all the appellants in their respective claims have been granted Priority Certificate in the matter of public employment based on the acquisition of lands belonging to them, under the very same acquisition proceedings. The respective Priority Certificates have been cancelled by the first respondent on the ground that the same had been obtained by fraud and misrepresentation, as they would not be eligible to be granted Priority Certificate. The said cancellation orders have all been independently challenged by the respective appellants and have also been dismissed by the learned Single Judge by separate orders. Considering the fact that the entire *lis* in the respective Writ Appeals are all common, by consent of the parties, all the Intra-Court Appeals have been heard together and are dealt with by this common judgment.

3. Heard Mr.G.Sankaran, learned Senior Counsel for Mr.J.Jayamalan,



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learned counsel for the respective appellant in all Writ Appeals and Mr.J.Ravindran, learned Additional Advocate General assisted by Mr.V.Manoharan, learned Additional Government Pleader appearing on behalf of the respondents in all Writ Appeals

4. The learned Senior Counsel for the appellants would contend that the appellants along with other persons have purchased agricultural land in Enputhupattinam Village through a Sale Deed, dated 21.05.2007. Since, they were all unemployed, they had purchased the said lands for the proposes of starting an educational institution. However, the lands that they have purchased were subject matter of an acquisition proceedings for providing of house sites to the landless Adi Dravidars in the locality. Since, the lands belonging to the appellants have been acquired by the Government, based upon the Rules that were prevailing a Priority Certificate, was issued by the Thasildar for the purpose of getting priority in Government appointments. Based upon the Priority Certificate given, were also registered with the employment exchange and the appellants were all appointed as a Secondary Grade Teachers in the Government High Schools.



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While so, to the shock and surprise of the appellants, the first respondent issued a communication cancelling the Priority Certificates issued without even affording an opportunity to the respective appellants. Hence, they were all constrained to approach this Court and had filed individual Writ Petitions which were all taken up together and by a common order, 06.11.2009 had rejected the claim of the appellants. Being aggrieved against the same, the appellants had also preferred an Intra-Court Appeals which were also disposed of together by a common order, dated 19.01.2011, wherein the Division Bench of this Court was pleased to set aside the order of the learned Single Judge as well as the order of cancellation. However, a liberty to proceed against the appellants if so desired was given and if any such proceedings were to be initiated, it is mandated by the Division Bench that adequate opportunity of hearing should also be given to the appellants.

5. Based upon the aforesaid liberty, notices were served upon the appellants calling upon them to explain as to why the Priority Certificates given to them should not be cancelled. The appellants have also submitted



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their respective objections and were also granted personal hearing. Even though, the appellants had submitted their objections, the first respondent while passing an order in common had not dealt with the facts of each case correctly and had wrongly appreciated the facts of another person in respect of the other and had proceeded to cancel the Priority Certificates.

6. In that context, the learned Senior Counsel would contend that a bare reading of the order impugned before the Writ Court would itself show that the same had been made without due application of mind and on that ground itself, the order cancelling the Priority Certificate ought to have been set aside. He would further, contend that it is not disputed by the respondents that the lands belonging to the appellants have not been acquired. When a land belonging to an individual had been acquired, it is axiomatic that they are also entitled for grant of Priority Certificate in the matter of public appointments. There can be no distinction drawn by the respondents that the lands so acquired should be the only source of income. He would submit that land purchased by the appellants along with others was to start an educational institution for eking out their day to day



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livelihood. Therefore, the lands that were acquired would be a source of income for the appellants and for acquisition of such lands, the appellants would be entitled for grant of Priority Certificate.

7. He would further contend that, even though, an opportunity had been given by the respondents, the representation and the objections made by the respective appellants had not been considered by the first respondent properly. The first respondent had misapplied the facts of one case to another and that would itself show that the first respondent was hell-bent in cancelling the Priority Certificate, even without application of mind. He would further submit that pursuant to the order of appointment, the appellants have all been serving with the School Education Department for almost 16 years and therefore, any order of cancellation would also affect their employment. He would also plead this Court to take judicial notice of the fact that the appellants would not be able to get a decent employment much less a similar employment, in view of all being over aged. All these factors have not been considered either by the first respondent or by the learned Single Judge and therefore he would seek this Court to interfere



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with the order of the learned Single Judge and set aside the same and also to quash the respective orders passed by the first respondent cancelling the Priority Certificate granted to the respective appellants.

8. Countering his arguments, Mr.J.Ravindran, Additional Advocate General would contend that the appellants were not owning any lands and the appellants have all purchased the lands which were identified to be acquired for the welfare of Adi Dravidar people under the Tamil Nadu Acquisition of Lands for Harijan Welfare Scheme, Act, 1978. He would submit that it is an admitted case that the appellants all have purchased the aforesaid lands in the month of May 2007. They all have voluntarily given their option to the Adi Dravidar Welfare Department on 16.06.2007 for acquisition of their lands for the purpose of house site pattas to the Adidraavidars who would be entitled for such benefit. Thereafter, the Government had also issued a Notification under Section 4 (1) of the said Act and the lands were acquired. The appellants were also given a Priority Certificate in view of the acquisition of lands and based upon the said Priority Certificate they had also registered themselves under the priority category and had secured jobs. A complaint had been received against the



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misuse of the Government order enabling such priority certificates to be given to the appellants and during the enquiry, it was found that they had purchased the lands and had voluntarily given their lands for acquisition. He would submit that the lands were originally identified for acquisition in the year 2006 and the process for acquisition was underway. He would submit that the appellants in connivance with some of the Department Officials who were then working in the Revenue Department had usurped the Government order to their benefits.

9. In that context, he would submit that even if it is assumed that the lands have been acquired by the Government, all persons whose lands have been acquired would not be entitled for grant of Priority Certificate as the Government order envisages only grant of priority in the matter of employment of persons who were wholly dependant on the lands which are acquired either in its entirety or partly. In the present case, he would submit that appellants have all purchased the lands only in the month of May 2007 and had voluntarily requested their lands to be acquired in the month of June 2007, which would itself show that they have not been dependant on the income by way of agriculture from the lands that were acquired. He



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would further submit that originally in the year 2009, an Order of Cancellation was passed which has also been affirmed by the learned Single Judge of this Court, but, however on an appeal, the Division Bench of this Court having found that no opportunity had been given to them had set aside the order and had remitted the matter back to the Authority. After conducting a detailed enquiry, the said order had been passed. He would further submit that the claim of the appellants before the first respondent, District Collector was that since, they were all unemployed, they had all purchased these lands either to start educational institution or for any other business purposes.

10. Drawing our attention to the affidavit filed by the appellants in the Writ Petition, he would submit that they had taken a contrary stand as they had all purchased the land sfor the purpose of real estate ie., laying out of plots and selling it. The above statements would also fortify for the reason given by the first respondent for cancelling the Priority Certificate. Since, it is an admitted case that there was no income that had been to the benefit of the appellants from the lands that have been acquired.



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11. In that context, he would submit that there has been no infirmity in the order passed by the learned Single Judge. He would also admit that there has been some factual mistakes that had been committed by the first respondent while passing the order in respect of the certain of the appellants. But, however he would contend that such erroneous recording of facts would not itself vitiate the order passed by the first respondent. He would submit that the reason for cancellation was that the priority certificate had been given to ineligible persons, since, their livelihood had not been affected by the acquisition of the lands. He would submit that the Government order only benefits a land owner who had been eking out his livelihood substantially from the lands that have been acquired and not to every land owner whose lands have been acquired. Therefore, he would submit that there is no necessity to interfere with the order passed by the learned Single Judge.

12. We have considered the rival submissions made by the learned counsels appearing on either side and perused the materials available on



record.

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13. It is an admitted case that the lands of the appellants have been acquired. Eventhough, the learned Additional Advocate General had created a doubt in the manner in which the appellants had acted to usurp the Government order to their benefit, we do not propose to dwell upon the said issue. The purchase and acquisition of lands all have happened 17 years ago and going deeper into the said transactions would not lead us anywhere as most of the Authorities, who had issued the certificates would have already superannuated from service.

14. Be that as it may, the *lis* that is now to be decided by this Court is as to whether the appellants are entitled for the benefit of the Government order in G.O.Ms.No188 P&AR Department, dated 28.12.1976. The Government had categorised the persons who would be entitled for such priority for public employment through the employment exchange. In Group-II Category (iii) indicates who would be persons who would be entitled for such priority in respect of persons whose lands have been



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acquired. For better appreciation, the relevant clause is extracted hereunder.

“...

(iii) Members of family including members of Schedules Castes/ Scheduled Tribes, whose lands have acquired for Government purposes as well as for the projects of the Public Sector undertakings subject to the condition that preference should be given to those who are dependant for their livelihood primarily or wholly on the lands acquired and from among them to members of the Scheduled Castes and Scheduled Tribes who may be eligible for employment.”

15. A reading of the said Clause indicates that members of a family including a member of Scheduled Caste and Scheduled Tribes whose lands have been acquired were entitled for a Priority Certificate. A condition has also been appended to the said Rule that such preference should be given to those who are dependant for their livelihood primarily or wholly on the lands acquired.

16. This clause has been interpreted by the learned counsel appearing for the appellants to the effect that any land owners whose lands have been



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acquired are entitled for grant of Priority Certificate. But, however a preference could be given to a person who are dependant wholly on the land for their livelihood. From the facts that had been narrated by the respective counsels and also the averments made in the affidavit filed in the Writ Petition, it could be seen that the appellants have all purchased the lands in the month of May 2007, jointly and their lands have all been acquired in the month of September 2007. Eventhough, the learned Additional Advocate General referring to the counter statement had made a submission that it was the appellants who had voluntarily submitted the lands for Acquisition, which statement has also not been rebutted to by the appellants either by filing a reply or a rejoinder to the said counter affidavit. Without going into the said disputed facts, we come to the conclusion that the appellants could not be said to have been primarily or wholly dependant of the income from the said lands for their livelihood, as they had only purchased the lands in May 2007. Further, the said Government order categories various persons who are entitled for a Priority Certificate in the matter of employment in the Employment Exchange. If the said Clause is to be interpreted as sought for by the learned Senior Counsel for the appellant,



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it would create a category within the category, ie., a person who was wholly dependant on the land for their livelihood and persons who were not. The object behind the said Government order is to only provide an employment of a person whose lands have been acquired, if that persons have been primarily or wholly dependant on the income from the lands for their livelihood. If the interpretation as sought for by the learned Senior Counsel is to be accepted, then any person whose lands have been acquired even though, they do not depend on the income and who has other sources of income, would also become entitled for grant of priority which would be violation of Article 14 of the Constitution, particularly in the matter of public employment. Even though, the said order, in our opinion creates inequality in the matter of public employment, but, considering the nature of the Government order in seeking to grant priority in employment, we find that the said Government order could be carved out as an exception to Article 14 of the Constitution for the reason that a person who had been dependant of a particular nature of work or land were sought to be given priority so that they could have a better life which we could trace it to Article 21 of the Constitution.



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17. In the present case, as rightly pointed out by the learned Additional Advocate General, all the appellants before the Authority had contended that they had purchased the lands to start an educational institution or any other business, but in the writ affidavit it has been stated that they have all purchased these lands to promote them as layout and sell the lands. This statement is enough to hold that the appellants were not dependant on the said lands till its acquisition for their livelihood.

18. When that being so, we are of the considered view that they would not be entitled to claim priority in the matter of employment that too a public employment. In such event, eventhough the first respondent had committed factual errors in recording the case of the respective appellants, the reason assigned by the first respondent for cancelling the Priority Certificate, in our view does not suffer from arbitrariness or a colourable exercise of power.

19. For the aforesaid reasons, we do not find any infirmity or



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illegality in the order of the learned Single Judge which warrants interference by us and in fine, these Writ Appeals fails and is accordingly, dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

(D.K.K.,J., .A.C.J.) (K.B., J.)
08.08.2024

Index: Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
gba

To

1.District Collector,
Namakkal,
Namakkal District.

2.District Employment Exchange Officer,
Namakkal,
Namakkal District.



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THE HON'BLE ACTING CHIEF JUSTICE
and
K.KUMARESH BABU.,J.

gba

A Pre-delivery Judgment made in
Writ Appeal Nos.1859, 1860, 1863
& 1866 of 2022
and C.M.P.Nos.13626, 13628, 13641
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