

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.02.2013

CORAM:

THE HON'BLE MR. JUSTICE K.CHANDRU

W.P.Nos.3226 to 3234 of 2013 and 29113 of 2012
& M.P.Nos.1 of 2013 (9 MPs)

L.Manikandan	.. Petitioner in W.P.NO.3226/2013
Janarthanan	.. Petitioner in W.P.NO.3227/2013
Jaishankar	.. Petitioner in W.P.NO.3228/2013
Kotteswari	.. Petitioner in W.P.NO.3229/2013
G.Kumaresan	.. Petitioner in W.P.NO.3230/2013
R.Munusamy	.. Petitioner in W.P.NO.3231/2013
M.Nalini	.. Petitioner in W.P.NO.3232/2013
Sakthi Neela	.. Petitioner in W.P.NO.3233/2013
Yuvarani	.. Petitioner in W.P.NO.3234/2013
Y.Samson	.. Petitioner in W.P.NO.29113/2012

Vs.

1. The Government of Tamil Nadu
Industries Department
Fort St.George
Chennai 9
2. The General Manager
BHEL/BA7, Ranipet
Vellore District
3. The Collector
Vellore
Vellore District
4. Convener and District Revenue Officer
Screening Committee
Vellore District
Vellore
5. Revenue Divisional Officer
Ranipet
Vellore District

.. Respondents in W.P.Nos.3226 to 3234 of 2013

1. The District Collector
Vellore Collectoraee
Vellore Town & District

2. The Convener and
District Revenue Officer
Collector's office
Sathuvachari
Vellore Town & District
3. BHEL
Ranipet
Vellore District

.. Respondents in W.P.NO.29113 OF 2012

Prayer in W.P.Nos.3226 to 3234 of 2013: Petition under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus to call for the records pertaining to the proceedings in No. in Rc. G3/42163/2011; G3/42209/2011; G3/42205/2011; G3/42194/2011; G3/42206/2011; G3/42204/2011; G3/42280/2011; G3/42162/2011; and G3/42203/2011 dated 9.12.2011 passed by the 4th respondent and to quash the same and consequently direct the 5th respondent to appoint the petitioners for any other suitable post in BHEL for which the interview was called for.

Prayer in W.P.No.29113 of 2012: Petition under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus calling for the records culminating in the impugned order dated 9.12.2011 in RC.G3/ 42230/2011 on the file of Convener District Revenue Officer Vellore-9 the 2nd respondent herein and quash the same and direct the respondents herein to provide employment to the petitioner herein.

For Petitioner in
W.P.Nos.3226 to
3234 of 2013 :: Mr.V.P.Rajendran

For petitioner in
W.P.NO.29113
OF 2012 :: Mr.S.I.Smiullah

For Respondents
in all Writ
Petitions :: Mr.Sanjay Mohan for
M/s.Ramasubramaniam Associates
for R2 in W.P.NOS.3226 TO
3234 of 2013 and
for R3 in W.P.NO.29113/2012

Mr.V.Subbiah, Spl.G.P.
For R1 and R3 to R5 in
W.P.NOS.3226 TO
3234 of 2013 and
for R1 & R2 in W.P.NO.29113/2012

COMMON ORDER

In all these Writ Petitions, the petitioners are claiming to be the members of the family being land losers for having given their land by way of acquisition, which was acquired for setting up Boiler Auxiliaries Plant at Ranipet in North Arcot District by BHEL.

2. The petitioners were inspired for making such claim for getting employment in the respondent BHEL, as per the judgment given by this Court in K.Gopu and others vs. The Government of Tamil Nadu in a batch of Writ Petitions starting from W.P.No.4113 of 1998 and the identical claims made by them came to be allowed by this Court by a common judgment dated 13.5.2008. Aggrieved by the direction issued by this Court, the respondent BHEL preferred Writ Appeal Nos.1275 to 1277 of 2008 and batch cases. The batch of Writ Appeals were filed by the persons who were denied relief as well as BHEL, against which directions were issued. All the Writ Appeals were clubbed together and a Division Bench of this Court by a common judgment dated 29.9.2010 dismissed the Writ Appeals, confirming the order passed by this Court.

3. The Division Bench in the above Writ Appeals held that the order passed by the learned Judge of this Court was fully justified and the issue regarding the employment under the displaced land owners' category was pending from 19.8.1981. Therefore, in the interest of both land owners as well as BHEL and to put an end to this issue at the earliest point of time and somehow the matter has been dragged for years together and therefore it was high time that the entire issue has to be resolved examining the individual cases by the Screening Committee appointed by this Court. It was also indicated that while issuing the Notification calling for applications from the displaced land owners, the Screening Committee should make it clear that no more application should be received in respect of land acquisition made by BHEL in terms of G.O.Ms.No.87, Industries Department dated 27.1.1981. It should be the endeavour of the Screening Committee to conclude the matter as expeditiously as possible and in any case, within a period of 6 months from the date of receipt of the judgment.

4. It is admitted by the respondent BHEL that subsequent to the order passed by the Division Bench, a Screening Committee was constituted as directed by this Court vide judgment dated 13.5.2008. In the said judgment, this Court gave the following directions in paragraphs 43 and 44:

"43. Therefore, this Court hereby orders appointment of a Screening Committee comprising of the following persons:-

1. The District Revenue Officer (North Arcot District)-
Convenerr
2. The Revenue Divisional Officer, Ranipet
3. The Tahsildar, Wallajah - Secretary
4. The Additional General Manager (HR & C), BHEL, Ranipet
5. The Deputy General Manager (Law), BHEL, Ranipet
6. The Manager (HR), BHEL, Ranipet

The meetings of the Screening Committee shall be convened by the District Revenue Officer and its Secretary will be the Tahsildar, Wallajah. If any difference of opinion crops up or any clarification is required, the same may be referred to the District Collector, North Arcot District for his consideration and opinion and be resolved accordingly.

44. The District Collector (North Arcot) is hereby directed to notify the constitution of the Screening Committee and also give adequate publicity to the land losers to appear before the Committee with necessary records. The Committee shall examine the claims of all the writ petitioners (excepting those cases which have been rejected by this Court) within a period of three months from the date of receipt of a copy of this order and to recommend to BHEL for grant of suitable appointments to the eligible land losers. Till the said exercise is completed, the respondent BHEL cannot proceed with any other appointment to the categories which the land losers are eligible. In case where some of the land oustees are not able to be given employment, the respondent BHEL shall also direct the contractors engaged by them, to employ those persons as was done by the directions approved in the Banwasi Seva Ashram's case (cited supra). "

5. In doing so, this Court while entertaining the claim of genuine land losers, who made their claim at the earliest point of time, dismissed the cases filed by the other persons, who have set out fresh claim. It is those land losers, who went on appeal and also got their Writ Appeals dismissed.

6. However, notwithstanding the same, the petitioners have once again stake their claim as if they are land losers for BHEL and therefore a member of the family should be granted employment in BHEL.

7. In the Writ Petitions, notice was taken by M/s.Ramasubramaniam Associates, the learned Standing Counsel for BHEL, who also filed a counter affidavit on behalf of the respondents dated 18.2.2013. A chart showing the consideration by the BHEL in respect of the claim made by the petitioners, was also produced by this Court, rejecting their claim.

8. Therefore, in the present cases, whether the contentions raised by the petitioners in assailing the reason for rejection can be countenanced by this Court. Before dealing with the same, it must be noted that while the lands were acquired by the State Government on behalf of BHEL, the State Government issued G.O.Ms.No.87 Industries Department dated 27.1.1981 and in paragraph 3(b), the Government also stated that in the case of the land owners, who will be completely deprived of their extent of land, atleast one member from each family of such displaced land owners should be given employment in the project.

9. The contention of the petitioners was that the present rejection is in complete violation of G.O.Ms.No.87 dated 27.1.1981. Principles of natural justice was violated in passing the impugned order and it is also opposed to the Doctrine of Legitimate expectation and when properties were utilised by the rural agriculturists, taking over such lands, without providing employment to them was totally unjustified.

10. In the counter affidavit filed by the respondents, the reason for rejection of each of the petitioner has been set out and it is suffice to give the summary of such rejection and it reads as follows:

S.N o. App .No .W.P .NO	Vill age Sirv No.	Awar d No.	Awar d date poss n. on	Name of Awaree (L.O) Father / Husban d name	Name of applicant/ Father/ Husband name Relationship to L.O DATE OF BIRTH & AGE (1.1.2012) Community Qualification	Name of Employee Staf NO. Relations hip to L.O Departmen t, Designati on Service Status	Remarks	Recomm endati ons
21 77 261 50 OF 200 8	SRP 324/ 2,35 1/9	6/ 82	26.6 . 1982 5.10 . 1981	Nara- simha Pillai Venkat a- chala Pillai	Manikandan L Lakshmanan Grandson 8.3.1889 & 22.82 yrs. OBC BSC	N.Laksh- manan 4153499	Employment provided to son of the land owner as per details given	Reject ed

S.No. App.No. W.P. NO	Village Serv No.	Award No.	Award date pos n. on	Name of Awaree (L.O) Father / Husban d name	Name of applicant/ Father/ Husband name Relationship to L.O DATE OF BIRTH & AGE (1.1.2012) Community Qualification	Name of Employee Staf NO. Relations hip to L.O Departmen t, Designati on Service Status	Remarks	Recomm endati ons
116 48				No land for this claim	Janarthanan M Manickavelu son 15.6.91 & 20.55 yrs. OBC VIII Std.		No land for the said claim	Reject ed
110 41				No land for this claim	Jaishnakar Arul IV Son 1.6.92 & 19.58 Yrs OBC X Std.		No land for the said claim	Reject ed
112 41				No land for this claim	Kumaresan G S/o.Ambiga son 1.6.80 & 31.58 Yrs. OBC IV Std.		No land for the said claim	Reject ed
85 13	MRP 187/ 6	1/8 1	26.1 2. 81 18.5 .81	Vellu Reddi Peruma l Reddi	Kottesh wari W/o.Muniyandi D'in law & Yrs OBC illiterate	L V Settu 4159047 son F3 BAY Semi- skilled worker Death	Employment provided to the son of the land owner. Also refer appn.No.8,1 4, 18 & 61 claiming employment for the same lands	Reject ed

S.N o. App .No .W.P .NO	Vill age Sirv ey No.	Awa rd No.	Awar d date pos s n. on	Name of Awaree (L.O) Father / Husban d name	Name of applicant/ Father/ Husband name Relationship to L.O DATE OF BIRTH & AGE (1.1.2012) Community Qualification	Name of Employee Staf NO. Relations hip to L.O Departmen t, Designati on Service Status	Remarks	Recomm endati ons
86 14	MRP 187/ 6	2/8 1	26.1 2. 81 18.5 1 .81	26.12. 81 18.5.8 1	DAKSHNAMOORTH Y Vellu Reddy son 3.6.66 45.58 yrs OBC III Std.	L V Settu 4159047 son F3 BAY Semi- skilled worker Death	Employment provided to the son of the land owner. Also refer appn.No.8,1 3, 18 & 61 claiming employment for the same lands	Reject ed
105 36				No land for this claim	YUVARANI D/o.Venkatach alam Daughter 5.6.92 & 19.57 yrs OBC HSC		No land for the said claim	Reject ed
107 38				No land for this claim	MUNUSAMY R sS/o.Mandiamm al son 10.5.88 & 22.64yrs OBC X Std.		No land for the said claim	Reject ed

S.N o. App .No .W.P .NO	Vill age Sirv ey No.	Awa rd No.	Awar d date poss n. on	Name of Awaree (L.O) Father / Husban d name	Name of applicant/ Father/ Husband name Relationship to L.O DATE OF BIRTH & AGE (1.1.2012) Community Qualification	Name of Employee Staf NO. Relations hip to L.O Departmen t, Designati on Service Status	Remarks	Recomm endati ons
258 264	MRP 129/ 2,12 3/6 95/1 ,2	16/ 82	3030 0 3042 4	Madura i- veeran Dorais ami Reddy	NALINI M W/o.Kaivanan D/o.Madurai Veeran M daughter 12.6.84 & 27.55yrs. OBC X Std.	D.Madurai Veeran 415345 Self Shipping & Traffic Semiskil led worker in service	Employment provided to the landowners as per details given.	Reject ed
259 265	MRP 164/ 2	2/ 82	26.2 . 1982 12.5 . 1981	Rajamm al W/o.Po nnusam i	Jayapaul T Thangavelu Grandson 9.6.84 & 27.56 yrs., OBC VIII Std.	P.Shamuga m 4159926 son Commercial USW Death	Employment provided to son of the land owner as per details given. Ref.app.1- claiming employment for the same lands.	Reject ed
17 70 261 50 of 200 8	SRP 325/ 7	8/ 83	19.5 . 1983 14.8 . 1984	Sakunt hala Ammal W/o.Ra jagopa l Naidu	SATHI NEELA W/o.Gangadhar an D'in law 6.1.79 & 32.99 yrs OBC VIII Std.	R.Ramchan diran 4164164 son Hl bay Sr Technicia n in service	Employment provided to son of the land owner as period details given.	Reject ed

11. Therefore, it was not the intention of this Court that the order constituting a Committee to consider the claim of land losers will have the benefit of employment for second member in the same family and that will pervert the scheme for employment to one member of each families, who are the land losers. In fact, the Committee constituted by this Court is a larger committee of persons involving the higher officials of the Revenue Department. Only in case of bona find deprivation of land, the question of employment will arise. It is also shocking to find that the persons who never contributed any land for the project has been also seeking employment on the basis that they have lost the land. Unless they satisfy their claim that they are land losers and no member of the family has been given employment, the question of employment assistance does not arise.

12. This Court do not find any case is made out to entertain the Writ Petitions. In fact, in the earlier round of litigations, this Court was conscious of the judgment of the Supreme Court in D.G.M. (HR) P.G.Corp., of India Limited vs. T.Venkat Reddy and others reported in (2007) 4 SCC 710. In that case, the Supreme Court held that in the absence of any scheme for such employment, no such direction can be given.

13. In the earlier cases, this Court also conscious of the fact that whether a direction to consider their claims can be given or any direction for employment and the scheme for employment cannot be expanded. When the matter went before the Division Bench, the Division Bench also was very clear that no fresh claims can be entertained and only existing claim can be considered. Since the claims of the petitioners have been rejected for such reasons, this Court is not inclined to entertain the Writ Petitions. Hence, all the Writ Petitions stand dismissed. No costs. The connected Miscellaneous Petitions are closed.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

ajr

To

1. The Secretary,
Government of Tamil Nadu
Industries Department
Fort St.George
Chennai 9

2. The General Manager
BHEL/BA7, Ranipet
Vellore District
3. The District Collector
Vellore
Vellore District
4. Convener and District Revenue Officer
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Vellore
5. Revenue Divisional Officer
Ranipet
Vellore District
6. The Convener and
District Revenue Officer
Collector's office
Sathuvachari
Vellore Town & District

10 cc To Mr.S.Ramasubramaniam & Associates, Advocate, SR.12357 to 12366

1 cc To Mr.S.I.Samiullah, Advocate, SR.12287

+ 1 CC to the Government Pleader SR NO.12711

W.P.Nos.3226 to 3234 of 2013
and 29113 of 2012

SCD {CO}
TP/8.3.2013.

सत्यमेव जयते

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