



W.P.No.15852 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE J. SATHYA NARAYANA PRASAD

W.P.No.15852 of 2012

S. Arokiasahaya Raj

... Petitioner

Vs.

1. Tamil Nadu Generation and Distribution Corporation Ltd.,
Rep. by its Secretary
Anna Salai,
Chennai – 2.
2. The Superintending Engineer (Civil)
Hydro-Electric Project, TANGEDCO
Vendipalayam, Erode – 2.
3. The Executive Engineer (Civil)
Bhavani Kattalai Barrage – III
Solasiramani, Namakkal.
4. The District Collector,
Namakkal District,
Namakkal.

... Respondents

PRAYER : Writ Petition filed under Article 226 of Constitution of India, seeking Writ of Certiorarified Mandamus to call for the records in letter No.10165/614/nipi.1/ni.vu.1/ko.land acquisition/2009-26 dated 16.02.2012 on the file of the 2nd respondent and quash the same and to issue further directions



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to provide suitable employment to the petitioner under category of displaced persons.

For Petitioner : M/s.K.Sasindran
For Respondents : M/s.V.M.Sreenidhi
for T.S.Gopalan & Co.,

ORDER

This writ petition has been filed to call for the records in letter No.10165/614/nipi.1/ni.vu.1/ko.land acquisition/2009-26 dated 16.02.2012 on the file of the 2nd respondent and quash the same and to issue further directions to provide suitable employment to the petitioner under category of displaced persons.

2. The learned counsel for the petitioner submitted that the petitioner had purchased an agricultural land of an extent of 0.05.0 hectares in Samayasangili Village by investing his earnings with a view to engage in raising cash crops and the same was registered as document No.1856 of 1997. There were farmers having similar extent of lands adjacent to his land. The first respondent approached the petitioner and the adjacent land owners to acquire the lands for its Bhavani – Kattalai Barrage One Hydro-electric Project (2 x 15 MW). The first respondent had given an assurance that one of the members of family will be given employment if they surrender their lands in accordance



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with G.O.Ms.No.656, Labour and Employment dated 29.06.1978 which was adopted by the first respondent vide Board Proceedings M.S.No.24 dated 10.01.1980. The petitioner and adjacent land owners accepted to surrender the lands based on the assurance given before the R.D.O. on 14.05.1998 and on 02.06.1998 before the third respondent. Subsequently when representation was given to the 2nd respondent, the second respondent has replied to the petitioner that his claim was forwarded to the Chief Engineer (Personnel) at Chennai, but the same was rejected by the second respondent. The rejection order dated 27.12.2001 was challenged by way of W.P.No.4344 of 2002 and the said writ petition was disposed of by setting aside the order passed by the 2nd respondent and with liberty to the petitioner to give a detailed representation in respect of his claim within a period of six weeks and directed the 2nd respondent to pass final orders on considering the representation.

3. The learned counsel further submitted that pursuant to the order passed in W.P.No.4344 of 2002, the petitioner gave a representation to the 2nd respondent on 20.06.2011 along with his educational qualification (Diploma in Electrical and Electronics) and a representation to the Chairman, TNEB on 18.08.2011 and subsequently a reminder communication was also sent to the



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2nd respondent and Chairman, TNEB on 22.08.2011. The second respondent sent a communication dated 14.09.2011 to the petitioner that the third respondent has been appointed to inquire about the representation. The third respondent sent a communication dated 20.09.2011 to be present before him on 29.09.2011 along with ration card, voter id and bank pass book and the petitioner attended the said proceedings before the 3rd respondent. The 3rd respondent/officer has signed in the proceedings before the R.D.O dated 14.05.1998 and before the 4th respondent on 02.06.1998 giving assurance for employment. The petitioner attended the proceeding before the 3rd respondent with necessary particulars. On 16.02.2012 the 2nd respondent passed the impugned order rejecting the petitioner's claim based on G.O.Ms.No.656 Labour and Employment Department dated 29.06.1978 and Board Proceeding vide B.P.Ms.No.24(SB) dated 10.01.1980. Aggrieved by the order passed by the 2nd respondent the petitioner has come forward with the present writ petition.

4. Counter affidavit was filed by the respondents in February 2020.

The learned counsel appearing for the respondents submitted that the Government of Tamil Nadu by G.O.(MS).No.656 dated 29.06.1978 directed all



Public Sector undertakings to frame a scheme to provide employment to a member of the family, whose livelihood has been affected as a result of acquisition of land belonging to them for putting up Projects of Public Sector Undertakings. Following the above G.O. the TNEB vide Board proceeding No.24 dated 10.01.1980 framed a scheme. As per the scheme, one member of the family of land givers would be entitled for employment, provided the land acquired has been the only major source of their livelihood and also no other member of the family is employed anywhere else including private employment. In the present case, the land of the petitioner was acquired in the year 1998 in connection with the Bhavani Kattalai Barrage I Samayasangili. The petitioner has not been found eligible to claim employment in terms of the Board Proceeding No.24 for the following reasons:-

a. The acquisition of lands for the project happened in the year 1998. However, the factum of acquisition was known to many people, especially to those who were then working in the TNEB, much earlier than the date of acquisition. This point is very relevant to determine whether the petitioner was one of the genuine land owners whose livelihood was really affected by the acquisition of lands by TNEB. The petitioner claims employment as the land owned by him and his brother jointly in Survey No.276/18-H1, H3 & H5 in Samayasangili Village of Namakkal was acquired for setting up the Project of the Bhavani Kattalai Barrage I Samayasangili. However, the said land was purchased by the petitioner and his brother only on 13.08.1997. Therefore, whether the petitioner was a



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genuine landowner whose livelihood was affected itself is a questionable fact.

I state that this becomes even more pertinent as the father of the petitioner was an employee, working as an Assistant in the TNEB in the year 2000.

b. The acquisition of land was happened in the year 1998, no doubt, that for the last 21 years, the petitioner family was able to sustain, which itself would go to show that the small piece of land acquired from his family was not the only source of livelihood for the family of the petitioner, nor the livelihood of the family of the petitioner could have been solely dependent on the land which was acquired by TNEB for the said project.

c. An additional factum that raises suspicion with regard to the land transaction is that the land itself does not have any path of access. It is completely land-locked from all the sides. This makes one wonder whether the transaction was for genuine reasons.

d. It is also pertinent to point out that the total land area itself was only 5 cents. It cannot be believed that such a small piece of land would have been the only source of income for the petitioner.

5. The learned counsel further submitted that the father of the petitioner was an employee working as an Assistant in the in the TNEB in the year 2000 at the time of acquisition of the land. A person would be entitled to claim employment only if the land was the only major source of livelihood for the family and the petitioner has not discharged the burden to prove that the land acquired from him was the only source of the his livelihood.

6. Heard both sides and perused the materials available on record.



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7. In the instant case, the land was acquired by the TNEB from the petitioner in the year 1998 for the Bhavani-Kattalai Barrage One Hydro-electric Project (2x15MW) and as per G.O.Ms.No.656 Labour and Employment Department dated 29.06.1978, the person from whom the land has been acquired and if he has no other source of livelihood he should be provided with employment by the Public Sector Undertakings. In this case, the father of the petitioner was working as an Assistant in TNEB in the year 2000 that is at the time of acquisition of the land from the petitioner and the land which was acquired was jointly owned by the petitioner and his brother and the same was purchased by them on 13.08.1997. The acquisition of land was in the year 1998, and for the past 23 years the petitioner family was able to sustain, which itself would show that the land acquired from his family was not the only source of livelihood for the family of the petitioner, nor the livelihood of the petitioner would have been solely dependent on the land which was acquired by TNEB for the said project. The age of the petitioner at the time of filing the writ petition was 45 years and at present his age is 57 years. More over it is pertinent to note that the total land area itself was only 5 cents which was acquired by the TNEB for its project. Hence, this Court is of the considered view that the relief sought



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for in the writ petition cannot be entertained at this stage for the following

reasons:-

1. The land was acquired in the year 1998.
2. The father of the petitioner was working as an Assistant in TNEB at the time of acquisition in the year 1998.
3. The age of the petitioner was 45 years at the time of filing the writ petition and now he is aged about 57 years.
4. The petitioner's family was able to sustain for the past 23 years that is from the year 1998 to 2023.
5. The petitioner has not proved that this land is the only source of income for their livelihood and in the absence of any proof for the same the writ petition cannot be entertained.

8. In view of the above findings of this Court, this writ petition stands dismissed. No costs.

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(1/4)

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Index : Yes/No
Speaking Order : Yes/No



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J. SATHYA NARAYANA PRASAD, J.

dpq

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