

T.Venkatesan.. Vs. the State of Tamil Nadu, and ors.

T.Venkatesan.. Vs. the State of Tamil Nadu, and ors.

SooperKanoon Citation : sooperkanoon.com/905187

Court : Chennai

Decided On : Aug-02-2010

Judge : N.Kirubakaran, J.

Appeal No. : Writ Petition No.7708 of 2010

Appellant : T.Venkatesan..

Respondent : The State of Tamil Nadu, and ors.

Advocate for Def. : Mr.P.Muthukumar, Adv.

Advocate for Pet/Ap. : Mrs.D.Anette Fassioms, Adv.

Judgement :

1. The petitioner has come before this Court seeking a Writ of Mandamus, to direct the respondents to implement G.O.Ms.No.92, Adi Dravidar Welfare (SCP1) Department, dated 10.08.2009 and disburse the funds as per the above said G.O.Ms.No.92, Adi Dravidar Tribal Welfare (SCP1) Department, dated 10.08.2009.

2. The case of the petitioner is that he belongs to a Schedule Tribe known as "Malayali" (Hill Tribes) of Thiruvannamalai Distrit. He is an agriculturist and engaged in sheep rearing business. The petitioner applied to the respondents seeking financial assistance under various schemes like NSFDC (National SC & ST Finance Development Corporation) Scheme etc. Originally, the petitioner made an application for loan and that was forwarded to various authorities.

Subsequently, the petitioner is alleged to have given further representations on various dates. The learned counsel appearing for the petitioner contends that the petitioner's application was favourably recommended through letter dated 05.11.2008 by the 2nd respondent to the 3rd respondent.

3. When things stand so, the Government has come out with G.O.Ms.No.92, Adi Dravidar Tribal Welfare (SCP1) Department, dated 10.08.2009, by which financial assistance through NSFDC has been sanctioned through 3rd and 4th respondents. Through the said scheme, 3rd and 4th respondents are given power to give financial assistance to the beneficiaries for implementing income schemes such as State Chanalising Agency. As per the aforesaid order, the financial assistance would be in the form of Subsidy of 30% of the project cost to a maximum of Rs.25,000/- from TAHDCO as Special Central Assistance Funds and Margin Money loan assistance from TAHDCO at 20% of the project cost subject to a maximum of Rs.1.25 Lakhs.

4. The learned counsel for the petitioner submits that as per the above said G.O.Ms.No.92, Adi Dravidar Tribal Welfare (SCP1) Department, dated 10.08.2009, the 3rd respondent is permitted to reallocate the fund, according to the need and necessity of the schemes, to District wherever it is necessary, within over all subsidy allocation of Rs.5,000/- Lakhs taking into SC population account in the Districts.

5. The learned counsel for the petitioner contends that again the petitioner along with other 216 members of Association made a representation to the 2nd and 4th respondents on 15.10.2009 to the 2nd respondent through the Tamil Nadu Schedule Tribe Farmers Welfare Association, Jamnamarathur, Tiruvannamalai District. The said representations were followed by other representations namely, 18.11.2009, 28.11.2009, 14.12.2009, 21.12.2009 and 06.01.2010. However, no orders has been passed.

6. Subsequently, the petitioner received letter dated 15.02.2010 from the 4th respondent, stating that though the Government Order was passed, the funds were not allocated from the Government. Therefore, the petitioner has come before this Court, seeking implementation of the Government Order.

7. Though, the 3rd and 4th respondents, notices were served and their names are printed in the cause list. No one represented on their behalf. This Court heard Mrs.D.Anette Fassioms, learned counsel appearing for the petitioner and Mr.P.Muthukumar, learned Government Advocate appearing for respondents 1 and 2.

8. It is seen from the G.O.Ms.No.92, Adi Dravidar Tribal Welfare (SCP1) Department, dated 10.08.2009, that the said Government Order is for all Scheduled Caste for enhancing the productive capacities in terms of Physical (Assets)/Human Capital (Skills). Various Schemes have been formulated and they are sought to be implemented by the said Government Order. Paragraph 4 of the Government Order reads as follows:- "4. NSFDC (MCF/MSY/Transport Sector, Small Business etc.,)

Under this scheme TAHDCO will give financial assistance to the beneficiaries for implementing income generating schemes as State Channelising Agency in Tamil Nadu. The financial assistance will be in the form of subsidy of 30% of the Project Cost to a maximum of Rs.25,000/- from TAHDCO as Special Central Assistance funds. Margin Money Loan Assistance from TAHDCO at 20% of the project cost subject to a maximum of Rs.1.25 Lakhs. Instructions in G.O.No.54/ADW/dt.19.04.1999 shall be followed in the implementation of the scheme. Under this scheme, it is proposed to cover 3500 individual members. (MCF, MSY, Transport Sector, Small Business etc.,). The scheme will be implemented with a financial allocation of Rs.1350 Lakhs consisting of Rs.350 Lakhs as SCA subsidy, Rs.150 Lakhs as Margin Money and Rs.850 Lakhs of NSFDC Term Loan."

9. The petitioner submits that as per the above said Government Order, the petitioners are entitled to the benefits. The last page of the Government Order states that the 3rd respondent is required to identify the beneficiaries and to implement the scheme with due care and diligence. Paragraph 7 of the Government Order reads as follows:- "7. The benefits of the schemes and assistance should be given only to SC people and those who are getting assistance under integrated Rural Development Programme or any other scheme

are not eligible to get any assistance under this State Action Plan for the economic development of SCs during 2009-2010."

10. Therefore, it is very much clear that the Government Order has been passed only for the benefit and upliftment of SC/ST. Having passed the Government Order in September, 2009, the petitioner's claim cannot be negated on the basis of that no fund was allocated. Money has to be allocated for the purpose of implementation of the Government Order and if, no money is allocated, the Government Order would remain only in the paper and it would not benefit any body.

11. It is seen as on 15.02.2010, no amount has been allocated. It is expected that the Government to allocate funds for implementation of G.O.Ms.No.92, Adi Dravidar Tribal Welfare (SCP1) Department, dated 10.08.2009 and the petitioner's claim is required to be considered at the earliest. With the above direction, the Writ Petition is allowed. No costs.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com