

THE HON'BLE THE CHIEF JUSTICE SATISH CHANDRA SHARMA

AND

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION (PIL) No.64 of 2021

ORDER: *(Per the Hon'ble the Chief Justice Satish Chandra Sharma)*

The present petition has been filed by way of a public interest litigation by the petitioner, who is described herself as an actress and politician, being aggrieved by the action of the State Government in issuing e-auction notice dated 15.06.2021 in respect of sale of parcels of land assets of the Government of Telangana located in Khanamet Village, Sharlingampally Mandal, Ranga Reddy District.

The petitioner's contention is that she is Ex-Member of Parliament and she was Member of Parliament from 2009-2014. She has played a vital role in the formation of Telangana State and she is interested in safeguarding the assets of the Government. Her further contention is that the State Government is auctioning the Government land contrary to the provisions of G.O.Ms.No.13, dated 10.06.2021 and the land cannot be auctioned/allotted to private parties and keeping in view the A.P. (Telangana Area) Alienation of State Lands and Land Revenue Rules, 1975, the land can be allotted only for

public purposes to local bodies, local authorities and local funds.

This Court has carefully gone through the Rules of 1975 and there is no such embargo under the Rules for disposing of the land for other purposes. The petitioner has prayed for the following reliefs:

“It is therefore prayed that this Hon’ble Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the Government Order bearing G.O.Ms.No.13, Industries & Commerce (IP & INF) Department, dated 10.06.2021, G.O.Ms.No.191, Revenue (Assignment-I) Department, dated 07.10.2015 as illegal, arbitrary and contrary to the provisions of Constitution of India, more particularly respondent Chief Secretary to the Government of Telangana and other respondents in issuing notification inviting offers to out right sale of land parcels/land assets on behalf of the Government of Telangana State, available at Khanamet Village, Sherilingampally Mandal, Ranga Reddy District of Telangana on “As is where is basis” through E-Auction vide No.9621/TSIIC/Auction/Khanamet/PH-1/2021 & at Kokapet Village, Gandipet Mandal, Ranga Reddy District vide R.C.No.1944/EMU/KKPT/HMDA/2019, dated 15.06.2021 inviting bids for the sale of the land parcels through E-Auction through bids services provider M/s. MSTC Limited highly illegal, arbitrary and consequently to set aside the notification No.9621/TSIIC/Auction/Khanamet/PH-1/2021, dated 15.06.2021 & R.C.No.1944/EMU/KKPT/HMDA/2019, dated 15.06.2021.”

Learned counsel for the State Government has drawn the attention of this Court towards the judgment delivered by the Division Bench of this Court in the case of **Omim Maneckshaw Debara vs. State of Telangana, rep., by its Chief Secretary**

and others¹ and contended that in similar circumstances earlier also a public interest litigation has been preferred and the same has been dismissed.

Learned counsel for the petitioner has not been able to point out any statutory provision of law which restrains the Government of Telangana in disposing of the land under the ownership of the Government. However, disposal of land has to be done through transparent process of issuing tender or by conducting an e-auction. The Division Bench of this Court while dealing with the similar controversy in paragraphs 14 to 19 has held as under:

14. In view thereof, the submission of Sri Murthy, in our opinion, loses its significance. Sub-clauses (a) and (b) of Clause (g) of paragraph 3 of the policy read thus:

“a. In case of government lands located within the Nagar Panchayats, Municipalities, Municipal Corporations, the lands shall not be alienated for any private purpose. The lands shall be exclusively used for public purpose such as recreational space, parks, open space, community structures including schools, hospitals etc.

b. The government lands owned by various departments and which are not being utilized to the full extent by the respective departments shall be proposed for allotment for public purpose.”

15. These sub-clauses also, in our opinion, will not apply to the facts of the present case for two reasons. Firstly, they are the part of government land allotment policy, and not government land alienation policy, and secondly, these clauses cannot take away the power of the State Government conferred under Article 298 of the Constitution read with the Rules. Article 298 of the Constitution deals with the power to carry on trade etc. It states that the executive power of the Union and of each State shall extend to the carrying on of any

¹ 2015 SCC Online Hyderabad 1019

trade or business and to the acquisition, holding and 'disposal of property' and the making of contracts 'for any purpose'.

16. The Rules were brought into force on 20-01-1975. The Rules were framed since there were no rules governing the alienation of State lands lying in the Telangana area of the State of erstwhile Andhra Pradesh and land revenue for public purposes, as in the case of the State lands situated in the Andhra area of the State. The Government found it expedient and necessary in the interest of public administration to have such rules for implementing expeditiously the provisions of Section 25 of the Andhra Pradesh (Telangana Area) Land Revenue Act, 1317 Fasli. The Government, therefore, in exercise of the powers under Section 172 of the State Land Revenue Act made the Rules. Rule 10 thereof reads thus:

“Notwithstanding anything contained in the foregoing rules, the Government may, if it desires to sell or otherwise alienate any of its lands or other property in Telangana Area, it may do so by following any reasonable procedure including public auction, where such alienation/sale is deemed necessary. (Added by G.O.Ms. No. 12, Dated 11-1-2002).”

17. We find force in the submissions of learned Advocate General that the Rules were framed in exercise of the enabling power of the State Government under Article 162 of the Constitution. The Rules read with Article 298 of the Constitution, in our opinion, confer power on the Government to alienate its property as long as such decision is either not arbitrary or mala fide. In view of this power and considering the facts of this case, it cannot be said that the Government deviated from its policy or the decision is arbitrary. A glance at the impugned Government Orders would show that they are all procedural in nature. We do find ourselves in agreement with the submission of the learned Advocate General that there is no constitutional impediment or statutory prohibition for alienation of the lands in question. It is common knowledge that the Government lands in cities like Hyderabad are always exposed to encroachment and if the Government in its wisdom has decided to alienate those properties since they are not required for any public purpose as such, the decision cannot be faulted.

18. In the circumstances, the PIL is dismissed.

19. Miscellaneous petitions, if any, also stand disposed of.”

The Division Bench of this Court has taken into account the earlier G.Os., issued in the subject i.e., G.O.Ms.No.82, dated

17.06.2015, G.O.Ms.No.191, dated 07.10.2015 and G.O.Ms.No.571, dated 14.09.2012 with reference to which the present G.O. has been issued on 10.06.2021 and the Division Bench has held that the Government land is always exposed to encroachment and if the Government in its wisdom has decided to alienate those properties, which are not required for any public purpose, as such, the decision cannot be faulted.

In the considered opinion of this Court, as no statutory provision of law has been pointed out before us that the Government land cannot be sold by way of e-auction, this Court does not find any reason to entertain the present public interest litigation to grant relief as prayed for.

Resultantly, the public interest litigation is dismissed.

Miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

SATISH CHANDRA SHARMA, CJ

ABHINAND KUMAR SHAVILI, J

17.02.2022
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