

Recd from
Mr. Vinod Desai

HONOURABLE SRI JUSTICE B. VIJAYSEN REDDY

W.P. Nos.84, 101, 107, 114, 127, 129, 130, 133, 138, 140,
6062, 6494, 6543, 6561, 6610, 6787, 7990, 8008,
8308, 8432, 8865, 9550, 10930, 15279, 15284,
16573, 16576, 17195, 17225, 19579 OF 2023

COMMON ORDER : (ORAL)

As common issue arises for consideration in all these writ petitions, they are being disposed of by this common order, at the admission stage itself, with the consent of both sides.

2. The pleadings in W.P. No.84 of 2023, which is taken as lead case for disposal of this batch of writ petitions, are as under:

2.1. The Government of Telangana State issued G.O.Ms. No.59 dated 30.12.2014 for regularisation and transfer of rights on land encroachments on unobjectionable Government lands, surplus lands and ULC lands to the people on payment basis. As per the said G.O., the persons who are in possession of land on or before

02.06.2014 are eligible for regularisation on payment of amount.

2.2. The rates fixed for the respective extent of residential land are as under:

1. Possession up to 250 square yards, 50% of the basic value as on 02.06.2014.
2. Possession up to 500 square yards, 75% of the basic value as on 02.06.2014.
3. Possession above 500 square yards, basic value as on 02.06.2014.

2.3. In case of regularisation of non-residential land, irrespective of extent, basic value as on 02.06.2014 shall be collected.

2.4. The Government of Telangana has issued G.O. Ms. No.14, Revenue (Assignment-I) Department, dated 14.02.2022 recommending rates for regularisation as per the amendment issued in G.O. Ms. No.12 dated 30.01.2015 which are as under:

1. Upto 250 square yards, 25% of the basic value as on 02.06.2014.
2. Upto 500 square yards, 50% of the basic value as on 02.06.2014.
3. Above 500 square yards, 75% of the basic value as on 02.06.2014.

2.5. The Petitioner submitted Application No.AOGO22200175256 dated 05.12.2022 for regularisation of Plot bearing H.No.9-75, admeasuring 245 square yards, in Survey No.141 of Mamidipally Village, Balapur Mandal, Ranga Reddy District. The petitioner received demand notice issued by respondent No.2 - the District Collector, Ranga Reddy District, to pay Rs.10,74,850/- towards regularisation charges in three (3) installments which is as under:

1. First Installment, 35% of total amount :- Rs.3,76,198/- Last Date for payment is 04-01-2023.
2. Second Installment, 35% of total amount: - Rs.3,76,198/- Last date for payment is 04.02.2023.
3. Third and Final Installment, 30% of total amount:- Rs.3,22,455/-

Last date for payment is 07.03.2023.

2.6. It is submitted that as per G.O. Ms. No.59 dated 30.12.2014 read with G.O. Ms. No.14 dated 14.02.2022, regularisation charges for the land up to 250 square yards is 25% of the basic value as on 02.06.2014. The basic value of the subject land as on 02.06.2014 was Rs.3,500/- per square

yards. Thus, the total value of the subject land is Rs.8,57,500/- and 25% of the same comes to Rs.2,14,375/- which is required to be paid by the petitioner for regularisation.

2.7. The demand of Rs.10,74,850/- towards regularisation charges made by respondent No.2 is excess, as such, the same is illegal, arbitrary and in violation of principles of natural justice.

Hence, this writ petition.

3. Heard Mr. L. Harish, Mr. Chetluru Sreenivas, Mr. Gudi Madhusudhan Reddy, Mr. Gouravulu Anil Kumar, Mr. Rupendra Mahendera, Mr. P.L. Rao, and Mr. Venkat Raghu Ramulu, learned counsel for the petitioners; Mr. Harender Pershad, learned Special Government Pleader, appearing for learned Government Pleader for Revenue for the respondents, and perused the material on record.

4. The learned counsel for the petitioners submitted that regularisation scheme under G.O. Ms. No.59 dated 30.12.2014 was extended under G.O. Ms. No.14 dated 14.02.2022. The cut off date for determining basic value is fixed as 02.06.2014 as clearly evident from G.O. Ms. No.14. The stand taken by the Government that basic

rate as on the date of application (in the year 2022) has to be paid by the petitioners is contrary to G.O. Ms. No.59. The demand notices are issued based on the prevalent basic rates (of the year 2022) which is illegal and should have been issued as per the basic rate prevalent as on 02.06.2014 as per G.O. Ms.

No.59.

5.1. The case of the respondents is that as per G.O. Ms. Nos.59 and 14, market value of the land for regularisation has to be paid. Due to increase in basic values from 2014 to 2022, taking the date of application in 2022 into consideration, the market value existing as on 2022 has to be taken and calculated separately for the structures covering an extent of 133 square yards out of 245 square yards of the land in respect of the petitioner in W.P. No.84 of 2023. The market value for balance extent of the land of 112 square yards has been calculated separately and the said petitioner was advised to pay the balance amount in three (3) installments.

The details of the calculations are as under:

- “i) Extent covered by structures - 133 Sq. Yards
 $133 \times 7,400/- = 9,84,200/-$ and 25% of amount - 2,46,050/-
- ii) Balance vacant land 112 Sq.Yards.
 $112 \times 7,400/- = 8,28,800/-$ - 8,28,800/-

TOTAL: 10,74,850/-
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5.2. That even after issue of G.O. Ms. No.59 dated 30.12.2014, some of the unauthorised occupants have not filed applications for regularisation and remitted market value after lapse of about more than seven (7) years. The matter was under active consideration of the Government, as such, it was decided to collect market value of the lands based on the basic market value as on the date of filing the application for regularisation. Subsequently, the Government issued G.O. Ms. No.22, Revenue (Assignment-I) Department, dated 01.03.2023, by amending the words “as on 02.6-2014” to be substituted with the words “as on the date of application”.

6. The learned Special Government Pleader submitted that in view of G.O. Ms. No.22, the confusion whatsoever existed has been clarified, and therefore, the petitioners cannot claim parity with the applicants in 2014. The market value as on 02.06.2014 has been revised in 2022. The same market value of 2014 cannot be applied in 2022. The petitioners are encroachers, as such, they do not have any fundamental right seeking for a direction to collect charges /

rates which suit to them. If relief is granted to the petitioners, it will cause huge loss to the State exchequer.

7. By G.O. Ms. No.59 dated 30.12.2014, the Government prescribed the following terms and conditions for regularisation:

“In view of this, the Government hereby order to alienate and regularize possession of unobjectionable Government land and surplus land under Urban Land Ceiling in respect of the possessions held by people, on payment basis for possessions held for both residential and non residential purposes. The following are the terms and conditions for regularization:

- i) Possessions in Unobjectionable Government lands and Surplus Lands under Urban Land Ceiling will be regularized by way of alienations.
- ii) Only encroachment by way of functional building units is considered for assignment.
- iii) Possession held on or before 02.06.2014 is eligible for regularization.
- iv) The following are the rates to be collected for regularization to the respective extents of **residential**:

- 1) Possession up to 250 square yards: 50 % of the Basic Value as on 02.06.2014.
- 2) Possession up to 500 square yards: 75 % of the Basic Value as on 02.06.2014.
- 3) Possession above 500 square yards : Basic Value as on 02.06.2014.
- v) **Non-residential possessions:** Irrespective of extent, Basic Value as on 02.06.2014 shall be collected.
- vi) Possession of government land as extension or appurtenant to a dwelling unit on land already owned or assigned may be considered for regularization on payment of full basic value.
- vii) The possessors in the encroachments, who are desirous to get regularization should submit applications to the Tahsildar concerned within 20 days from the date of issue of this G.O.
- viii) The applicants should pay 25% of basic value of the land by way of Demand Draft in favour of Government of Telangana State and enclose the same to the application.”

8. G.O. Ms. No.59 dated 30.12.2014 was modified by G.O. Ms. No. 12 dated 30.01.2015 and Paragraph No.2(iv) of G.O. Ms.

No.59 dated 30.12.2014 was substituted as under:

“A M E N D M E N T

For Para 2 (iv) in the said G.O., the following shall be substituted, namely:-

(a) In the case of BPL families where the dwelling unit exceeds the extent of 125 square yards upto an extent of 150 square yards only, the following rates shall apply.

126-150 sq yds	Notified slums	10% of the basic value as on 02.06.2014
	Other than notified slums	25% of the basic value as on 02.06.2014

(a) In other cases, the following revised rates shall apply.

Extent	Payable amount
Up to 250 Square yards	25% of the basic value as on 02.06.2014.
Up to 500 Square yards	50% of the basic value as on 02.06.2014.
Above 500 Square yards	75% of the basic value as on 02.06.2014.”

9. G.O. Ms. No.14 dated 14.02.2022 was issued extending the time limit for receiving applications for regularisation in terms of G. O. Ms. No.58 and G.O. Ms. No.59 dated 30.12.2014 from 21.02.2022 to 31.03.2022.

10. Guidelines were issued by the Government for processing new applications filed under G.O. Ms. No.59 dated 30.12.2014 as per G.O. Ms. No.14 dated 14.02.2022. Some of the important guidelines are as under:

“ 2	Only encroachment by way of functional building units is considered for assignment.
3	As per earlier guidelines possession held on or before 02.06.2014.
4	The rates to be collected for regularisation to the extent of residential: (As per Amendment issued in G.O.Ms.No.12, dt:30.01.2015)
a)	Upto 250 Sq.Yds., 25% of the basic Value as on 02.06.2014.
b)	Upto 500 Sq.Yds., 50% of the basic Value as on 02.06.2014.
c)	Above 500 Sq.Yds., 75% of the Basic Value as on 02.06.2014
6.	Irrespective of extent, basic value as on 02.06.2014 shall be collected
13.	In case of APL families in the notified / recognised slums where the dwelling limit is below 125 Sq.Yds., 10% of basic value as on 02.06.2014 shall be collected. (Amendment issued vide G.O. Ms. No.217, dt:04.10.2016).

14	Those applicants who were issued pattas under G.O.58 and willing to pay under G.O.59 the Tahsildar shall execute new conveyance deed in favour of applicants under G.O.59 duly collecting 10% of basic value as on 02.06.2014”
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11. The contention of the learned Special Government pleader is that new applicants under G.O. Ms. No.59 read with G.O. Ms. No.14 have to pay basic value as on the date of application. However, the same is countered by the learned counsel for the petitioners contending that operational guidelines under G.O. Ms. No.14 dated 14.02.2022 read with G.O. Ms. No.59 dated 30.12.2014 clearly indicate that basic market value of land as on 02.06.2014 shall be collected. As can be seen from the above operational guidelines in Paragraph No.2, 3, 4, 6, 13 and 14, there cannot be any dispute that basic market value to be collected for the new applicants is 02.06.2014.

12. According to the learned Special Government Pleader, in view of G.O. Ms. No.22 dated 01.03.2023, the discrepancies in the operational guidelines with regard to cut off date i.e., 02.06.2014 has been

clarified and basic value as on the date of application is to be taken.

13. This Court has given earnest consideration to the submissions made by the learned counsel on either side and perused the G.Os. issued by the Government of Telangana from time to time.

14. It cannot be generalised that all the petitioners are encroachers. However, it is an undeniable fact that the petitioners on their own volition have responded to the regularisation scheme floated by the Government in terms of G.O Ms. No.59 dated 30.12.2014 read with G.O. Ms. No.14 dated 14.02.2022. In all probabilities, the petitioners are either in unauthorised possession of the Government lands by way of encroachment or have dispute with the Government in respect of the lands / plots in their possession.

15. Now the question that arises for consideration is whether the petitioners - encroachers have any fundamental right to seek regularisation as per the

basic market value of their plot / land as on 02.06.2014 in terms of G.O. Ms. No.59 dated 30.12.2014?

16. In the opinion of this Court, the petitioners being encroachers or being in possession of the disputed Government land/s do not have any fundamental right to claim regularisation. The petitioners cannot plead for similar treatment on par with the applicants who submitted applications for regularisation on or before 02.06.2014. It is not in dispute that market value has been revised from 2014. For instance, basic value as on 02.06.2014 in respect of the petitioner in W.P. No.84 of 2023 was Rs.3,500/- per square yard and on the date of application in December 2022, the basic value was Rs.7,400/- per square yard. Thus, it cannot be contended that the petitioners are similarly placed as that of the applicants who submitted applications in 2014.

17. As seen from the material placed on record and pleadings, confusion has arisen due to carelessness and negligence of the authorities. The authorities

should have taken reasonable care while issuing guidelines and for fixing market value to be taken for processing new applications as per G.O. Ms. No.14 dated 14.02.2022. However, the fact remains that the Government in its wisdom has clarified the confusion / discrepancy, as the case may be, by issuing G.O. Ms. No.22 dated 01.03.2023.

18. It is the contention of the learned counsel for the petitioner that G.O. Ms. No.22 dated 01.03.2023 is not applicable to the petitioners as they have submitted their application in 2022 in terms of G.O. Ms. No.59 dated 30.12.2014 where the cut off date clearly indicated as 02.06.2014 and G.O. Ms. No.22 dated 01.03.2023 which came into force from 01.03.2023 is not

applicable to the petitioners. Such contention is without any force. As noted above, the petitioners are encroachers or are in possession of the disputed Government lands, as such, no right accrues or vested in them merely because they have submitted applications for regularisation. The applications received from by the petitioners and

others are being processed and the Government has not taken any decision yet. Nothing prevents the Government from withdrawing the regularisation G.O. If G.O. Ms. No.59 dated 30.12.2014 is withdrawn, there cannot be any contention that the Government is bound to implement such G.O.

19. The scheme of regularisation (G.O. Ms. No.59) is a policy decision of the State and the State has absolute power to alter or amend the scheme before any legal right is vested in the applicant/s. Having realised that there are some mistakes and discrepancies in the operational guidelines issued under G.O. Ms. No.14, the Government has issued G.O. Ms. No.22 amending the basic market value to be the rate as on the date of application.

20. In exercise of extraordinary jurisdiction under Article 226 of the Constitution of India, the writ Court would enforce fundamental rights which subserve public good and in public interest. The policy decision of the Government to extend benefit of G.O. Ms. No.59 by G.O. Ms. No.14, and later amending the

rates by G.O. Ms. No.22 cannot be faulted on any grounds of arbitrariness, unreasonableness or illegality. As stated above, mere filing application do not vest the petitioners with right to claim regularisation and that application should be processed as per certain rate. It is the prerogative of the Government to change the rate at any time before the decision is taken for regularisation of such plots. Thus, there are no merits in this batch of writ petitions.

21. The learned counsel for the petitioners have placed reliance on the judgment of the Hon'ble Supreme Court in **Bharat Sanchar Nigam Limited v.**

M/s. Tata Communications

Limited¹, wherein the question that arose for consideration was regarding raising of charges for infrastructure fees with retrospective operation from 01.04.2009 vide Circular dated 12.06.2012, to be paid by the service providers (respondents). It was held in paragraph No.30 of the said judgment that Circular dated 12.06.2012 giving retrospective effect from 01.04.2009 in revising infrastructure charges is not legally sustainable. The appellants therein are Bharat Sanchar Nigam Limited etc., and the respondents

are service providers (licensees) viz., M/s. Tata Communications Limited etc., who have entered into agreements regulating their *inter se* terms and conditions. This judgment is not applicable to the facts of the present case as the petitioners herein, by any stretch of imagination, cannot be placed in similar situation as that of the respondents (licensees) in **BSNL's case** (Supra 1). As pointed out above, the petitioners are only encroachers / in possession of the disputed Government lands and do not have any vested right to challenge the impugned notice.

¹ 2022 LiveLaw (SC) 792

22. Therefore, the batch of writ petitions is dismissed without any order as to costs.

23. The interim order dated 03.01.2023 in W.P. No.84 of 2023 was passed by this Court suspending the impugned demand notice dated 05.12.2022 subject to condition of the petitioner therein depositing 25% of total value of the subject land / plot.

24. In the circumstances, the petitioners in this batch of writ petitions are directed to deposit the remaining 75% of the demand made under the impugned notice within a period of

six (6) weeks from the date of receipt of a copy of this order.

On receipt of such amount, the applications of the petitioners shall be processed under

G.O. Ms. No.59 dated 30.12.2014 read with G.O. Ms. No.14 dated 14.02.2022 and as modified by G.O.Ms. No.22 dated 01.03.2023 and order/s shall be passed in accordance with law.

25. At this stage, the learned counsel appearing for the petitioners submitted that there are calculation errors and there is no clarity as to the rate fixed by the authorities for the land covered by the structures and appurtenant land, as such, the petitioners may be permitted to submit representations ventilating their grievance.

Having regard to such submissions, the petitioners are given liberty to submit representations ventilating their grievance for proper assessment of regularisation charges for the land covered by the structures / appurtenant land, and on receipt of such representations, appropriate order shall be passed by the authorities within a period of six (6) weeks therefrom. It is made clear that the petitioners shall pay balance amount of 75% as directed above within a period of six (6) weeks as directed in paragraph No.24. However, subject to

outcome of representation, if any, submitted by the petitioner/s, the amount paid by such petitioner/s shall be adjusted / refunded.

As a sequel thereto, miscellaneous applications, if any, pending in this batch of writ petitions stand closed.

B. VIJAYSEN REDDY, J

September 12, 2023.

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