

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.19694 OF 2006

ORDER:

Heard Smt Jyothieshwar Gogineni, learned counsel for petitioner and Sri M.Sudheer, learned standing counsel for respondents 2 and 3 and perused the material available on record.

This writ petition is filed under Article 226 of the Constitution of India, challenging the proceedings Rc.N.POU/2005, dated 30.08.2006, issued by the Executive Director of the 3rd respondent society.

Previously, the petitioner filed W.P.No.2079 of 2006, assailing the inaction of the respondents in not disposing of the representations dated 31.12.2005 and 10.01.2006, as being arbitrary, illegal, capricious and violative of Article 14, 21 and 300(A) of the Constitution of India.

This Court by way of an order dated 13.06.2006, disposed of the said writ petition and the operative portion of the said order reads as under:

“Be that as it may, since the petitioner made representation to the respondents and which is pending. I deem it appropriate to direct the respondents to consider the representation of the petitioner in the light of the report submitted by the Deputy Tahsildar and the letter of the Executive Director, dated 16.11.2005 addressed to the Vice Chairman and Managing Director, and pass appropriate orders within a period of two months from the date of receipt of a copy of this order.”

Subsequently, in pursuance of the above said orders, the 3rd respondent, Executive Director passed an order vide Rc.No.POU/2005, dated 30.08.2006, rejecting the request of the petitioner. Calling in question the validity and the legal substantiality of the said order passed by the 3rd respondent, the

present writ petition came to be filed.

Counter affidavit is filed, denying the averments in the affidavit filed in support of the writ petition.

It is contended by the learned counsel for the petitioner that the impugned proceedings are erroneous, contrary to law, arbitrary and violative of Article 14 of the Constitution of India. It is further contended by the learned counsel that the 3rd respondent failed to take into consideration the reports submitted by the Deputy Tahsildar and the letter dated 16.11.2005 addressed to the Vice Chairman and Managing Director and had the same been considered from proper perspective, the impugned proceedings would not have been emanated.

Per contra, it is vehemently argued by the learned standing counsel for respondents 2 and 3 that the impugned proceedings are perfectly legal and are justified in the facts and circumstances of the case and there is no illegality nor any infirmity in the impugned proceedings, as such, the petitioner is not entitled for any relief.

In the above back drop, now the issue that emerges for consideration is whether the petitioner is entitled for the relief sought for?

The impugned order clearly and categorically shows that the Executive Director of the 3rd respondent society took into consideration, the clarification issued by the Vice Chairman and Managing Director and rejected the request of the petitioner. There is absolutely no dispute with regard to the fact that this Court in W.P.No.2079 of 2006 specifically directed the respondents to consider the representation of the petitioner in the light of the report submitted by the Deputy Tahsildar and the letter of the Executive Director dated 16.11.2005, addressed to the Vice Chairman and Managing Director and pass appropriate orders.

A bare perusal of the impugned order manifestly shows that the 3rd respondent did not refer to the said reports submitted by the Tahsildar and the letter of the Executive Director dated 16.11.2005. Since this Court, in the earlier writ petition, specifically directed the respondents to consider the representation in the light of the report of the Deputy Tahsildar and the letter of the Executive Director dated 16.11.2005, the 3rd respondent is not justified in ignoring and discarding the same. There is absolutely no justification on the part of the 3rd respondent in neither referring nor considering the said report and the letter.

For the aforesaid reasons, the writ petition is allowed, setting aside the order vide proceedings in Rc.No.POU/2005, dated 30.08.2006, passed by the Executive Director of the 3rd respondent society and the matter is remanded to the respondents 2 and 3 for fresh consideration and for passing appropriate orders in the light of the directions issued by this Court in W.P.No.2079 of 2007, after giving notice and affording opportunity to the petitioner. There shall be no order as to costs.

Pending miscellaneous petitions in this Writ Petition, if any, shall stand dismissed in consequence.

A.V.SESHA SAI, J

20.01.2015
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HON'BLE SRI JUSTICE A.V.SESHA SAI

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DATE: 20.01.2015

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