

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH**

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W.P.No. 30542 of 2015

Between:

B. Krishna Reddy

... Petitioner

and

State of Telangana and others

... Respondents

DATE OF JUDGMENT PRONOUNCED: 20.11.2015

THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

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| 1 | Whether Reporters of Local
newspapers may be allowed to see
the Judgments? | No |
| 2 | Whether the copies of judgment may
be marked to Law Reports/Journals | No |
| 3 | Whether Their Ladyship/Lordship
wish to see the fair copy of the
Judgment? | No |

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THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

W.P. NO. 30542 of 2015

ORDER:

Heard Mr. P. Laxma Reddy, learned senior counsel for the petitioner and learned Government Pleader for Revenue appearing for the official respondents. Nobody appeared for other respondents.

An order dated 29.8.2015 passed by the third respondent-Tahsildar pursuant to the notice dated 6.8.2015 issued by him to the petitioner to show-cause as to why his bore well should not be seized, is questioned in this writ petition.

The petitioner states that on being called upon to submit an explanation, he submitted an explanation to the District Collector, Nalgonda on 14.9.2015, but the impugned order was passed by the third respondent-Tahsildar on the ground that no explanation was submitted by the petitioner. The learned senior counsel appearing for the petitioner states that by mistake the petitioner had submitted the explanation to the District Collector, instead of Tahsildar and if an opportunity is given, the petitioner will submit his explanation to the Tahsildar in response to the show-cause notice dated 6.8.2015. He also submits that during the pendency of this writ petition the petitioner's bore well is not seized and he has been irrigating his agricultural field of 0-20 guntas with the said bore well which is the only source of their livelihood and in case the bore well is seized, the petitioner would not be able to irrigate his field and would sustain loss. The learned senior counsel also raised a contention with respect to power of the Tahsildar under Section 15 of the Andhra Pradesh Water, Land and Trees Act, 2002 (for short "the Act"), however, he has not pressed that contention for the present.

In the facts and circumstances, it is evident that in response to

the show cause notice, the petitioner ought to have submitted explanation to the Tahsildar, but he submitted it to the District Collector, Nalgonda on 14.9.2015. Since the District Collector is not primary authority under the Act, the petitioner's grievance remains unredressed. Keeping in view the circumstance that no seizure is effected against the petitioner's bore well, interest of justice would be served if the petitioner is given an opportunity of submitting his explanation to the show-cause notice, dated 6.8.2015.

Hence the writ petition is allowed, the impugned order dated 29.8.2015 is set aside and the petitioner is given liberty to submit an explanation to the third respondent within one week from today. On receipt of such explanation, the third respondent shall notify the petitioner as well as the complainant, hear both of them and pass appropriate orders either dropping the proceedings or taking further action under Section 15 of the Act.

Miscellaneous applications, if any, shall stand closed. No order as to costs.

VILAS V. AFZULPURKAR, J

Dt.20.11.2015

NB:

CC of order be furnished by 23rd November, 2015

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