

THE HON'BLE SRI JUSTICE A.V.SESHA SAI
WRIT PETITION No.2619 of 2015

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ORDER:
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This writ petition is filed under Article 226 of the Constitution of India, for the following relief:

“To issue an order or orders particularly one in the nature of Writ of Mandamus declaring the proceedings of the District Collector vide Ref. E4/3540/2014, dated 17.10.2014 as illegal, arbitrary, null and void and consequently direct the 2nd respondent to grant temporary permission for distillation of earth in the PWD tank admeasuring Ac.44.35 cents in Sy.No.40 of Pandrawada village, Samarlakota Mandal, East Godavari District.”

2. Heard the learned counsel for the petitioner and the learned Government Pleader for Mines and Geology for the respondents.

3. According to the petitioner, he is the absolute owner and possessor of the agricultural land admeasuring Ac.10-00 cents in Sy.Nos.44/A and 45/A in Pandrawada village, Samarlakota Mandal, East Godavari District and is in need of 30,000 cubic meters of earth to develop the said land cultivable. It is stated that the land in Sy.No.40 admeasuring Ac.44-35 cents of Pandrawada village is classified as P.W.D. Tank and the said tank is covered with thick bushes and accumulated with silt.

4. Petitioner herein has made an application to the Tahsildar, Samarlakota, East Godavari District/fifth respondent herein on 15.06.2013 requesting to grant permission for excavation of earth in Sy.No.40 i.e., P.W.D. Tank and the Tahsildar/fifth respondent herein vide letter dated 15.11.2013 recommended the case of the petitioner to the Executive Engineer, Y.I. Division, Peddapuram. The Executive Engineer, Y.I. Division, Peddapuram through a letter dated 12.06.2014 accorded no objection for excavation of earth from the above said

Sy.No.40. The Assistant Director of Mines and Geology/the third respondent herein vide Lr.No.4818/TP/2014, dated 03.07.2014 made a request for joint inspection with regard to the claim of the petitioner herein. Subsequently, on 08.07.2014, a joint inspection was conducted by the Revenue, Irrigation, Forests and Mining departments and a report was submitted recommending for grant of permission to the petitioner. The Tahsildar, Samarlakota/5th respondent herein vide reference dated 14.07.2014 sent a report to the Revenue Divisional Officer, Kakinada/fourth respondent herein recommending for consideration of the request of the petitioner herein.

5. The Revenue Divisional Officer vide Ref.C/982/2014, dated 16.07.2014, addressed to the Assistant Director of Mines and Geology, Rajahmundry, recommended for grant of temporary permission for excavation of the earth from the subject tank. The District Forest Officer, Kakinada also vide Rc.No.3947/2014 M dated 19.07.2014 expressed no objection for issuance of transit permit for transport of de-silted earth from the subject tank.

6. Subsequently, vide letter No.4818/TP/2014 dated 01.08.2014, the Assistant Director of Mines and Geology, East Godavari District, Rajahmundry/the third respondent herein while sending the copies of the report submitted by the various departments and the Joint Inspection Report, requested the District Collector to take further action in the matter. After receipt of the said letter dated 01.08.2014, the District Collector/second respondent issued the impugned proceedings vide Ref.No.E4/3540/2014 dated 17.10.2014. Paragraph No.2 of the letter reads as under:

“In this regard, it is to be informed that the Collector, E.G.Dist., has been pleased to instruct tht Laterite Mining and other all mines are now proposed to be taken up only by A.P., Mineral Development Corporation. No private Party is supposed to be doing any mining on their own. Hence, all the proposals are rejected. All mines work are to be given to the A.P.M.D.C.”

7. Calling in question, the validity and legal sustainability of the said proceedings in Ref.No.E4/3540/2014 dated 17.10.2014 issued by the District Collector/second respondent herein, the present writ petition came to be filed. Even though, the petitioner filed the present writ petition as long back as on 09.02.2015, no counter affidavit has been filed

8. In the present writ petition, it is the contention of the learned counsel for the petitioner that the order impugned in the present writ petition is totally one without jurisdiction and as per the guidelines formulated in G.O.Ms.No.2, Revenue (Assignments.I) Department dated 02.01.2013 the competent authority is the District Level Screening Committee consisting of 7 members including the District Collector as the Chairman. It is the complaint of the petitioner in the present writ petition that without placing the matter before the District Level Screening Committee as per the procedure laid down in the said Governmental order, the District Collector passed the impugned order, rejecting the proposals for grant of permission in favour of the petitioner herein.

9. This Court, on 10.02.2015, directed the learned Government Pleader to ascertain as to whether the instructions issued in G.O.Ms.No.2 dated 02.01.2013 are still in force.

10. Today, when the matter is called, it is submitted by the learned Government Pleader that the guidelines issued in G.O.Ms.No.2 dated 02.01.2013 are still in force.

11. As evident from the impugned proceedings, according to G.O.Ms.No.2 dated 02.01.2013, the District Level Screening Committee consists of the following members:

1.	District Collector	Chairman
2.	Joint Collector	Member
3.	RDO-concerned	Member

4.	Executive Engineer, Pollution Control Board.	Member
5.	District Forest Officer.	Member
6.	Tahsildar concerned	Member
7.	Assistant Director (Mines & Geology)	Member-Convenor

12. As per Clause 6 (vi) of the Governmental order, the District Level Screening Committee shall take collective decision on the issue of “NOCs”. In the instant case, it is the categoric case of the petitioner herein that without placing the issue before the District Level Screening Committee, the second respondent herein passed the impugned orders rejecting the proposal. This contention of the petitioner is not disputed by filing counter by the respondents. Therefore, this Court absolutely has no scintilla of hesitation nor any traces of doubt to hold that the questioned order in the present writ petition is totally one without jurisdiction.

13. For the aforesaid reasons, writ petition is allowed, setting aside the proceedings in Ref.No.E4/3540/2014 dated 17.10.2014 issued by the District Collector, East Godavari District, Kakinada/second respondent herein and the District Collector/second respondent herein is directed to place the proposal of the petitioner herein for grant of permission for excavation of earth before the Screening Committee for further action in accordance with the guidelines issued in G.O.Ms.No.2 dated 02.01.2013. As a sequel, the miscellaneous petitions, if any, shall stand disposed of. There shall be no order as to costs.

A.V.SESHA SAI, J

Date:08.07.2015
grk

