

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.37950 of 2015

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23.11.2015

Between:

Smt.Sagina Devudamma and another

.. Petitioners

and

The State of Andhra Pradesh,

represented by its Chief Secretary,

Hyderabad and others

.. Respondents

Counsel for the petitioners: Mr.V.Surendra Reddy

Counsel for respondent No.1: Assistant Government Pleader

for General Administration Department (AP)

Counsel for respondent Nos.3, 4 and 5: Assistant Government Pleader

for Revenue (AP)

Counsel for respondent Nos.2, 6 and 7: --

The Court made the following:

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ORDER:

This writ petition is filed by the Sarpanch of Chintapalle Gram Panchayat and the President of Mandal Praja Parishad, Chintapalle Mandal, with the purported grievance that respondent No.3 has directed the Panchayat Secretary of Chintapalle Gram Panchayat to issue a ‘No Objection Certificate’ (NOC) for installing a new retail outlet of H.P.C.L. in survey No.58/6 (R.S.No.121/3) of Chintapalle Village.

I have heard Mr.V.Surendra Reddy, learned counsel for the petitioners, and perused the record.

At the outset, it needs to be observed that the very prayer in the writ petition itself is wholly misleading, for in the first place, the impugned proceedings, dated 21.08.2015, issued by respondent No.3, do not contain any direction to the Panchayat Secretary, Chintapalle Gram Panchayat, on any aspect, and secondly, even if request made by respondent No.3 is construed as a direction, no such direction was issued by him to the Panchayat Secretary, Chintapalle Gram Panchayat, to issue NOC.

The alleged offending para of the impugned proceedings, dated 21.08.2015, reads as under:

“The Panchayat Secretary, Gram Panchayat, Chintapalli Village & Mandal is requested to verify the safety of the public and send a detailed report along with resolution in the matter as per norms.”

This Court is at a loss to know as to how the above para of the impugned proceedings, dated 21.08.2015, of respondent No.3 could be construed as containing a direction to issue NOC. Being the persons holding the responsible positions as Sarpanch and President, it lies ill in the mouth of the petitioners to file a writ petition with the false claim that respondent No.3 has given a direction to the Panchayat Secretary, Chintapalle Gram Panchayat, to issue NOC.

At the hearing, it is not disputed by the learned counsel for the petitioners that under the Andhra Pradesh Petroleum Products Order, 1980, respondent No.3 is the competent authority to grant permission for running a retail outlet in *Form IX*. Therefore, respondent No.7 has approached respondent No.3 by filing an application along with *Form IX*. Being the licensing authority, it is the duty and obligation of respondent No.3 to call for reports from the various functionaries such as Police, Fire and Health Departments and Gram Panchayat concerned. In that context, respondent No.3 has requested the Panchayat Secretary, Chintapalle Gram Panchayat, to verify the public safety and send a detailed report along with the resolution (to be passed by the Gram Panchayat). This Court is unable to comprehend as to how and in what manner, the petitioners are aggrieved by this request made by respondent No.3 in discharge of his official duty.

If the petitioners have any objection on the location of the retail outlet at the place proposed by respondent No.7, being the Sarpanch, petitioner No.1 can get a resolution passed by the Gram Panchayat opposing the application. Indeed, the petitioners filed a copy of letter addressed by the Panchayat Secretary, Chintapalle to respondent No.3 informing that on 03.09.2015, the Gram Panchayat passed a resolution opposing location of the retail outlet at the proposed place and suggested another place. Instead of awaiting the decision of respondent No.3, the petitioners needlessly filed this writ petition. Being the public representatives, they cannot invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India, by raising unsustainable pleas contrary to the true facts of the

case. For the aforementioned reasons, I am convinced that this writ petition is a piece of vexatious litigation, evidently to preempt a decision by respondent No.3 from granting license to respondent No.7. Hence, I do not find any *bona fides* in this litigation.

The Writ Petition is accordingly dismissed.

As a sequel to dismissal of the writ petition, W.P.M.P.No.48819 of 2015 filed by the petitioners for interim relief shall stand dismissed as infructuous.

C.V.NAGARJUNA REDDY, J

23rd November, 2015

GHN