

HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE

AND

HON'BLE SRI JUSTICE S.V. BHATT

WRIT APPEAL Nos. 898, 899 AND 903 OF 2015

06-10-2015

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WRIT APPEAL No. 898 OF 2015

Between:

Sri Bala Tripurasundari Fishermen Cooperative Society Ltd., V.39,
Viswanadhapuram Village, Tripurantakam Mandal, Prakasam District, rep., by its
Secretary Velupula Peda Ankaiah, S/o. Yellaiah, aged about 65 years, R/o Davvali
Village, Lellapalli Post, Tripurantakam Mandal, Prakasam District

... Appellant

And

The State of Andhra Pradesh, rep., by its Commissioner, Fisheries Department,
Hyderabad

... Respondents

HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE

AND

HON'BLE SRI JUSTICE S.V. BHATT

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WRIT APPEAL Nos. 898, 899 AND 903 OF 2015

PC: (per the Hon'ble the Acting Chief Justice Dilip B. Bhosale)

These three appeals are directed against the common order dated 12-08-2015 disposing of Writ Petition Nos.35282, 29396 of 2014 and 9389 of 2015 with the following observations made in the concluding paragraph:

“Thus, Gram Panchayats of Kankanalapalli and Viswanadhapuram villages are entitled to grant lease of fishing rights in the respective village tanks and the Fisheries Department has no authority to interfere with the powers of the respective Gram Panchayats in this regard. W.P. Nos.35282 and 29396 of 2014 are accordingly disposed of. In view of the final orders passed in W.P.No.29396 of 2014, the W.V.M.P.No.550 of 2015 is dismissed. W.P.No.9389 of 2015 is disposed of leaving it open to the petitioner society to seek for grant of lease hold rights of fishing in the Kankanalapalli and Viswanadhapuram village tanks from the respective Gram Panchayats. As stated by the respondent – Fisheries Department in paras 6 and 7 of the counter-affidavit filed in this writ petition, petitioner society requested for grant of fishing rights in only four tanks i.e., Kankanalapalli, Viswanadhapuram, Medipi and Pamulavagu Check Dam and though the issue was processed, but due to pendency of W.P.Nos.29396 of 2014 and 35282 of 2014, fishing rights were not granted in all the four villages. Since the above writ petitions are now disposed of, there is no bar for the Fisheries Department to grant fishing rights in Medepi and Kankanalapalli Check Dam of Kankanalapalli village if petitioner’s society is otherwise entitled to. The Kankanalapalli and Viswanadhapuram village Gram Panchayats shall conduct auction to grant lease of fishing rights as expeditiously as possible, preferably within four weeks from the date of receipt of the order by following the norms prescribed for granting fishing rights by the Gram Panchayats.”

It is not in dispute, and as stated in the memorandum of appeal in Writ Appeal No. 899 of 2015 in paragraph 7, the appellant in pursuance of the orders passed by the learned single Judge approached the Fisheries Department and also the Gram Panchayats. Insofar as Fisheries Department is concerned, Mr. Devanand, learned Government Pleader appearing for the Department submits that the Fisheries Department has already granted fishing rights in Medepi and Kankanalapally Tank of Kankanalapalli Village in favour of the appellant. Though learned counsel for the appellant submits that they have not received any such order, we are not inclined to enter into that controversy and suffice it to say that even if the order has not reached the appellant, they can collect it from the concerned authority on the basis of the statement made on affidavit in the counter filed on behalf of the Fisheries Department. Insofar the tanks within the jurisdiction of Kankanalapalli and

Viswanadhapuram villages are concerned, the appellant in the memorandum of appeal has stated that as per the directions issued by the learned single Judge, they approached the Gram Panchayats for leasehold rights through their representation dated 26-08-2015, but they have denied leasehold rights.

From perusal of paragraph 24 of the impugned order, as quoted above, we do not find any such direction as stated by the appellant in the memorandum of appeal, issued by the learned single Judge. On the contrary, the order clearly shows that both the villages were directed auction of fishing rights within time frame.

Sri Devanand submits that the respondents have taken steps for conducting auction and shall complete the same within a period of four weeks from today, as per the directions issued in the impugned order. In view thereof, we dispose of this appeal observing that whenever the Gram Panchayats conduct auction, it is open to the appellant to participate in the process. Insofar as the contention urged by learned counsel for the appellant that the Gram Panchayats have no right to conduct action is concerned, we are not inclined to entertain the same for two reasons. Firstly, no such prayer was made in the writ petition and secondly, it raises disputed questions of fact.

With these observations, the writ appeals are dismissed.

Miscellaneous petitions, if any, also stand disposed of.

DILIP B. BHOSALE, ACJ

S.V. BHATT, J

06-10-2015

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