

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION NO.15000 of 2011

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Between:

1. Muvvala Srinivasarao and others.

PETITIONER

AND

1. The Deputy Director of Fisheries-cum-Convener, District Level Committee,
Machilipatnam, Krishna District, and others.

RESPONDENTS

ORDER:

Heard learned counsel for the petitioner and learned Government Pleader for Fisheries for respondents.

This writ petition is filed complaining interference of the respondents with the petitioners' peaceful possession and enjoyment of the aquaculture pond in land admeasuring Ac.4.12 cents in Sy.Nos.212/3, 212/2 situated at Kudavaravalli Village, Pedavirivada Panchayat, Nandivada Mandal, Krishana District.

When this writ petition came up for admission on 09.06.2011 along with batch of writ petitions, this Court while ordering Rule Nisi, passed elaborate order in W.P.M.Ps, which reads as under.

“In this batch of cases, the petitioners have approached this Court complaining that the respondents are interfering with their possession and enjoyment of the lands used for the purpose of aqua culture. The State Government initially issued guidelines in G.O.Ms.No.83, dated 12.09.2007 according permission for construction of new/regularization of the existing fresh water aqua culture ponds. The said G.O. was amended in G.O.Ms.No.18, dated 26.03.2008. Clause 3(iii) thereof *inter alia* provided that once a prospective fish farmer filed an application in the prescribed manner, information should be communicated to the applicant either issuing the licence or rejecting the same citing reasons, by the official concerned within two months from the date of application, and if no such communication was received from the authority within two months, the applicant would go ahead with construction of new pond as if the licence had been issued. By virtue of the orders issued by the State Government in G.O.Ms.No.24, dated 9.04.2010, new guidelines were issued superseding earlier G.O.Ms.No.83, dated 12.09.2007 and G.O.Ms.No.18, dated 26.03.2008.

Cases were filed in this Court both by those who were opposing the construction of new/regularization of existing ponds and also by those who where completed their constructions under the deeming provision of G.O.Ms.No.18, dated 26.03.2008. A Division Bench considered the matter in a batch of cases in W.A.No.550 of 2010 and batch, dated 29.04.2011 and issued the following directions.

“We accordingly dispose of WA and writ petitions with the following directions:

1. Before any permission is granted for conversion of agricultural land into non-agricultural purposes, permission under Sec. 3 of the Conversion Act is must;
2. The landholder, who intends to convert his agricultural land into non-agricultural purpose ie., fish tanks, has to make an application before the Committee Constituted in G.O.Ms.No.47 dt.24-6-2010. The Committee which scrutinizes the applications necessarily can proceed with the same only on enclosing the conversion order obtained under the provisions of the Conversion Act along with the application and take steps.
3. At the time of granting permission for aquaculture, it is always open for the adjacent landholders to make their objections for converting the adjacent lands into fish tanks and their objections shall be taken into consideration before granting permission.
4. After conversion of agricultural land into fish tanks, if any

complaint is received stating that it is causing pollution of underground water or adjacent land became saline, the said complaint has to be referred to the authority constituted under the Environment Act with the report from the Pollution Control Board for certification that it will not cause any environment pollution and in the event if it causes environmental pollutant, the Committee constituted under the Environment Act shall suggest remedial measures and only on complying with the remedial measures, the Committee shall certify accordingly. Basing upon the said certificate, the authority constituted under G.O.Ms.No.47 dt.24-6-2010, which accorded permission for setting up of fresh aquaculture has to take steps either for discontinuation of aquaculture activities or can withdraw the permission so granted to protect the environment as suggested by the Committee constituted under the Environment Act.

5. Wherever Committee granted permission without there being any permission obtained for conversion of agricultural land into non-agricultural purposes, the persons whose lands were permitted to convert for setting up of fish tanks should be directed to produce a certificate of conversion under the Conversion Act by fixing a time limit and on failure to submit such certificate, permission granted earlier should be withdrawn

There is no controversy as regards those who intend to construct new ponds after the guidelines issued in G.O.Ms.No.24, dated 9.04.2010. The controversy in this batch of cases is only in respect of those who are said to have completed construction of ponds under the deeming clause before issuance of G.O.Ms.No.24, dated 9.04.2010 and those who are said to have filed applications subsequent to issuance of G.O.Ms.No.24, dated 9.04.2011 till State Level Committee was constituted under G.O.Ms.No.47, dated 24.06.2010. Until the deeming provision was rescinded under the G.O.Ms.No.24, dated 9.04.2010, an intending farmer whose application satisfied the other conditions was entitled to have the benefit of deeming clause. Therefore, prima facie, I am of the opinion that those tanks which were already constructed under the deeming clause shall not be interfered with subject to complying the conditions.

Regarding those farmers, who have filed applications between 9.04.2010 to 24.06.2010, though there is a controversy that the said applications ought to have been placed before the State Level Committee as per G.O.Ms.No.47, dated 24.06.2010, indisputably, the State Level Committee was not constituted until then. Prima facie, it would appear that such of those petitioners whose applications were made during the said period state that since the forum was not created until 24.06.2010 they were under the impression that they were also entitled to construct new ponds and accordingly they have undertaken construction under the said impression.

In the circumstances, I deem it appropriate to permit those applicants also to operate the fish ponds subject to complying the

conditions.

In the circumstances as above, the authorities are permitted to verify the facts as to whether the petitioners have constructed the tanks complying the conditions stipulated two months prior to the issuance of G.O.Ms.No.47, dated 24.06.2010. If it is found that the ponds have been constructed before the said date, complying all the conditions stipulated including the permission for conversion of agricultural land for non-agricultural purpose, the respondents shall not interfere with the operation of the fish ponds.”

Though no counter affidavit is filed, when the matter is taken up today for final disposal, the learned Government Pleader has placed on record proceedings in Rc.No.1620/A2/2015, dated 4.11.2015, which reads as under.

“With reference to the W.P.No.15000 of 2011 filed by Muvvala Srinivasarao, S/o. Chandraiah and 2 others, it is to submit that the petitioners have submitted applications for construction of fish tank in Sy.Nos.212/3, 212/2 situated Pedavirivada Revenue Village, Nandivada mandal, Krishna District. Further it is to submit that vide registration No.1153, dt.08.07.2014 the Farm has been provisionally registered and granted permission to excavation in above survey numbers. The petitioners have excavated fresh water aquaculture tank and applied for final registration in Form C on 15.08.2014. The final registration is under process through online services.”

As the relief sought for by the petitioner for provisional registration for fish ponds has been granted, and fish ponds have been dug by the petitioner, the grievance of the petitioner stands redressed both in terms of the interim order granted by this Court as well as the final proceedings of the Director of Fisheries.

Accordingly, the writ petition is closed. As a sequel, pending miscellaneous petitions, if any, shall stand closed. No order as to costs.

CHALLA KODANDA RAM, J.

6th November, 2015

Js.