

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

WRIT PETITION NO.521 OF 2011

DATED:20-8-2015

Between:

J. Naresh

... Petitioner

And

The Government of A.P.,
Rep. by its Principal Secretary
Forest Department
Secretariat Buildings,
Hyderabad
and others

... Respondents

... Respondents

COUNSEL FOR THE PETITIONER: Mr. Chidagam Srinivas, for
Mr. K. Vasudeva Reddy

COUNSEL FOR THE RESPONDENTS: G.P. for Forests (TS)

THE COURT MADE THE FOLLOWING:

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ORDER:
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This writ petition is filed for a mandamus to declare proceedings No.41795/09/V3, dt.23.11.2010, issued by respondent No.2, as illegal.

The petitioner is the owner of a sawmill situated at Pochampally Village and Mandal, Medak District. He has made an application to respondent No.2 for permission to shift the sawmill from the existing place to a place in Choppadandi Village, Karimnagar District. By the impugned proceedings respondent No.2 has rejected the petitioner's request on the ground that Choppadandi Village is in Karimnagar West Division, which already has 234 sawmills with no valuable timber species in the forest and that it is very near to Adilabad Circle and Karimnagar East Division, which are having good forests of valuable timber, that permission to shift the sawmill to the said place creates problems of protection of forests in the adjoining Adilabad Circle and Karimnagar East Division.

The impugned order coming as it did with sound reasons needs to be upheld in ordinary course. However, a twist in the tale is provided by Memo No.8304/For.III/2010, dt.26.11.2010, issued by the Special Chief Secretary to Government, whereby a similar request of one person, by name, Mr. P. Rajkumar, sponsored by the Hon'ble Minister for Forests, Environment, Science and Technology, was accepted within three days of rejection of the petitioner's request. The petitioner has filed a copy of the said order and made a specific reference in the affidavit by raising the plea of invidious discrimination. Still, the counter affidavit has not even offered any justification for accepting the request of Mr. P.Rajkumar while rejecting the request of the petitioner.

The learned Government Pleader for Forests (TS) submitted that

while the reasons mentioned in the impugned proceedings are sound, if respondent No.1 has conferred a benefit on another person, the petitioner cannot claim a similar benefit. I am afraid, I cannot accept this submission.

It is trite that a person is not entitled to claim a relief based on negative equality. But, it is not the pleaded case of the respondents, that there is a statutory prohibition on shifting sawmill from one place to another except to the extent that a sawmill cannot be permitted to be shifted from a place outside the periphery of five kilometers of reserve forest to a place within five kilometers thereof. If the reasons given by respondent No.2 are not based on any statutory prohibition and if they appear rationale and reasonable there is no reason why they are not uniformly applied to everyone. Merely because the Hon'ble Minister for Forests has recommended a person's case, the State cannot treat him by a different yardstick. From the fact that Mr. P. Rajkumar was permitted to shift his sawmill it is reasonable to presume that the reasons assigned by respondent No.2 in the impugned order are not acceptable. As rightly pleaded by the petitioner, the respondents have shown invidious discrimination between the petitioner and Mr. P. Rajkumar. In the absence of any prohibition, either by statute or executive instruction, on shifting of petitioner's saw mill and in the face of the permission given to Mr. P. Rajkumar, who is similarly situated to the petitioner except the sponsorship of the Minister, I find it is a fit case to grant relief to the petitioner.

The writ petition is accordingly allowed as prayed for.

As a sequel to disposal of the writ petition, W.P.M.P.49246 of 2012 shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

20-8-2015

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