

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

WRIT PETITION No.24940 of 2016

ORDER:

1 This Writ Petition is filed under Article 226 of the Constitution of India seeking a writ of mandamus declaring the action of the Respondent Nos.3 to 6 in not receiving the applications from petitioners for permission to fell trees and insisting the petitioners to submit their applications online and also submit Security Deposit online as per the orders issued by the Government in G.O.Ms.No.58, Environment Forest and Science & Technology department dated 08.06.2016, as illegal, arbitrary and further direct the respondents herein to pass orders on the applications made by the petitioners as per the procedure in vogue without insisting them to make security deposit.

2 Heard Sri Mavidi Rama Rao, the learned counsel for the petitioners and the learned Assistant Government Pleader for Forests.

3 The case of the petitioners is that they are small and marginal farmers, eking out their livelihood by cultivating lands, raising commercial crops including trees and also doing timber business. It is further submitted that in exercise of the powers conferred by Sub-Section (1) of Section 45 of the Act 10/2002, the Government of Andhra Pradesh made A.P. Water, Land and Trees Rules, 2002. A plain reading of Rule 24 of A.P. Water, Land and Trees Rules, 2002 clearly demonstrates that re-planting is essential in every Municipal Corporation or Municipality or local areas. As per the said Rules, the owner of the premises or house

shall apply in writing to the designated officer for permission in Form-A with prescribed fee as indicated in the Rules to fell tree. As per the orders issued by the Government in G.O.Ms.No.58 dated 08.06.2016, the parties have to plant double the trees fell of the same species within one year from the date of felling. Now after issuance of the said G.O. the authorities are insisting the petitioners to apply online for permission to fell trees and also submit security deposit. For the year 2016-17, the security deposit is fixed at Rs.400/- per tree. The guidelines issued in the G.O.Ms.No.58 dated 08.06.2016 are not applicable to the private individuals or the existing industries. Hence the present Writ Petition.

4 The Government of Andhra Pradesh issued G.O.Ms.No.58 Environment, Forests, Science & Technology Department, dated 08.06.2016 stipulating certain instructions for simplification of process for Tree-felling permission to fell trees other than Red Sanders, Sandal Wood and Rose and in Scheduled areas of the State.

5 The predominant contention of the learned counsel for the petitioner is that G.O.Ms.No.58 relates to felling of trees that are essential for establishment of new industrial unit and that the said G.O. is not applicable to the private individuals / pattedars or the existing industries.

6 On the other hand, the learned Assistant Government Pleader, on instructions, submitted that the Principal Chief Conservator of Forests issued instructions vide

Rc.No.12180/2015/FCA-4 (ii), dated 07.09.2016. The relevant portion of the said instructions reads as under:

“The Government vide their Memo under reference 3rd cited, have further clarified that the orders issued by the Government in G.O.Ms.No.58 EFS&T (Section-II) Dept. dated 08.06.2016 for simplification of process for Tree Felling Permission under the provisions of relevant Acts and Rules are applicable only for the purpose of establishing new industry. The objection is to facilitate for Ease of Doing Business for establishment of new industries in industrial clusters. The industries are also required to obtain various other clearances including Environmental clearance. Therefore, organized industries that are subject to various checks and balances cannot be compared to individuals. Accordingly, the procedure in the G.O.Ms.No.58 EFS&T (Section-II) Dept. dated 08.06.2016 is not applicable to individuals or existing industries.”

7 A perusal of the above G.O. clearly reveals that the above procedure contemplated in the G.O.Ms.No.58 is not applicable to the petitioners who are private individuals. The learned Assistant Government Pleader, in all fairness, submitted that G.O.Ms.No.58 is applicable in case of establishment of new industry. Therefore, the third respondent is not justified in issuing the impugned proceedings and hence the impugned proceedings are liable to be set aside.

8 In the result, the Writ Petition is allowed and the respondents are hereby directed to receive applications from the petitioners and pass orders on the applications as per the procedure in vogue without insisting them to follow the procedure as contemplated in G.O.Ms.No.58, dated 08.06.2016. No order as to costs. As a sequel, miscellaneous petitions, if any, pending in this Writ Petition, shall stand closed.

T.SUNIL CHOWDARY, J

Date: September 15, 2016.

Kvsn