

**HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
THE HON'BLE SRI JUSTICE S.V. BHATT**

PUBLIC INTEREST LITIGATION No.325 of 2015

Dt:18.01.2016

Between:

B.Venkateswara Rao.

... Petitioner

And

The Union of India and others.

... Respondents

**HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
THE HON'BLE SRI JUSTICE S.V. BHATT**

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

Heard learned counsel for the parties.

The petitioner, in the instant PIL, has made the following prayer:

“For the reasons stated in the accompanying affidavit, it is hereby prayed that this Hon'ble Court may be pleased to issue a writ, order or direction, more particularly one in the nature of Writ of Mandamus to direct the respondents to allot Rs.25,00,000/- (Twenty Five Lakhs) for construction of Retaining Wall of the Drinking Water Pond instead of another Over Head Surface Water Tank to provide safe drinking water to the villagers of Borravaripalem Village, Borravaripalem Gram Panchayat, Nizampatnam Mandal, Guntur District, as per the norms of National Rural Drinking Programme, issued by the 1st respondent as well as G.O.Rt.No.1651, Panchayat Raj and Rural Development (RWS-II) Department, dated 22.10.2013, issued by the 2nd respondent, and to pass such other order or orders as it may deem fit and proper in the circumstances of the case.”

We have perused the affidavit, counter-affidavit and also the photographs placed on record by both, the petitioner and the respondents. The averments in paragraphs 6 to 8 made in the counter-affidavit filed by the respondents are relevant, which read thus:

“6. In reply to para 4 of the affidavit, it is submitted that no

drainage outlets were connected to village tank and there is no scope of pollution of tank by the rain water as reported by the petitioner. Rain water is one of the purest forms of water and the Government is planning for the harvesting of the rain water. If at all required, rain water harvesting structure will be proposed to recharge the drinking water tank instead of retaining wall.

7. In reply to para 6 of the affidavit, it is submitted that the Government allotted fund for the augmentation of single village scheme (ASVS) in Borravaripalem Village of Nizampatnam Mandal with the existing surface water source (i.e., Canal) through G.O.Rt.No.1651, dated 22.10.2013 of PR&RD (RWS-II) Department, but not for the construction of retaining wall to the village tank as reported by the petitioner. The statement of the petitioner that the fund is sanctioned for the construction of village tank is misleading the Court.

8. In reply to para 8 of the affidavit, it is submitted that no drainage outlets were connected to village tank and there is no scope of pollution of tank by the rain water as reported by the petitioner. Rain water is one of the purest forms of water and the Government is planning for the harvesting of the rain water. If at all required, rain water harvesting structure will be proposed to recharge the drinking water tank instead of retaining wall."

From perusal of the materials placed before us, we are satisfied that the amount of Rs.25,00,000/- as referred to in the prayer clause in any case cannot be diverted for construction of retaining wall since the said amount is earmarked for construction of overhead tank to supply safe and pure drinking water to the villagers. It is true that there already exists one water tank, but does not appear to be catering to the needs of the villagers and that is why the respondents have decided to construct one more overhead tank for drinking water. At the same time, from perusal of the photographs placed on record, we are satisfied that retention wall at some places to the lake is necessary in such a way that rain water is harvested into the tank and drainage, animals etc., are precluded from polluting the water body.

In view thereof, we dispose of the PIL by the following order:

“The respondents shall undertake construction of overhead tank at the earliest from the funds set apart for this purpose and shall complete the same as expeditiously as possible and preferably within a period of six months from today. Respondent Nos.4 and 5 shall also consider the request of the petitioner made by way of representation, dated 21.09.2015 (Annexure P1), seeking construction of retention wall as indicated above, as expeditiously as possible and shall take appropriate decision within a period of three months from today.”

Consequently, miscellaneous petitions, if any, also stand disposed of.

DILIP B. BHOSALE, ACJ

S.V. BHATT, J

Dt:18.01.2016

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