

THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.20142 of 2016

ORDER:

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Heard learned counsel for petitioner, Assistant Government Pleader for Panchayat Raj for 1st respondent, Assistant Government Pleader for Revenue for 2nd respondent and Sri G.Seshadri, Standing Counsel for 3rd respondent.

The petitioner challenges notice in Rc.No.22/2016, dated 13-06-2016. The notice reads as follows:-

“Ref:- 1. As per the proceedings Rc B/560/2016,
dt.06-06-2016 of the Tahsildar,
Banaganapalle.

2. Note dt.06-06-2016 of the Mandal
Surveyor, Banganapalle.

3.Application of Sri T.Venkateswarlu,
Banumukkala village.

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The Sri Lakshmi Venkateswara Construction requested for NOC for running Batch Mix and Hot Drum Plant 100 HPEM in Sy.No.167/1, Banumukkala area, Banaganapalle Grampanchayat, Kurnool District, therefore, we have given NOC on 27-05-2016 according to your Encumbrance Certificate stating that there is 40 feet road.

As per the reference 1 and 2 of the Tahsildar, Banaganapalle, as per Certificate under NOC given by the Tahsildar there is no Rastha in Sy.Nos.248, 249, 317, 266 and 267.

Sri T.Venkateswarlu, resident of Banumukkala village, is requested to cancel the NOC granted earlier stating that there is 40 feet approach road.

Therefore, as per the Certificate issued by the Tahsildar, there is no 40 feet approach road in Sy.Nos.248, 249, 317, 266 and 267, hence, the NOC granted by this Grampanchayat on 27-05-2016 is hereby cancelled. In this

regard, if there are any objections, submit the same to this office within 7 days from the date of receipt of this notice.”

The petitioner applied for grant of NOC by the Gram Panchayat, Banaganapalle. On 27-05-2016, basing upon the resolution of Gram Panchayat, dated 19-05-2016 the 3rd respondent granted NOC to run ‘Batch Mix and Hot Mix Drum Plant’ to the petitioner.

The grievance of petitioner is that the Resolution passed on 19-05-2016 is in force as on date. The Executive Officer through the impugned notice cannot and could not have cancelled the NOC dated 27-05-2016. The operative portion of notice is exacted above. Prima facie, it appears that cancelling the NOC while intending to issue notice, receive explanation from the petitioner and pass appropriate orders, is arbitrary and illegal.

Hence, I am satisfied that the writ petition can be disposed of by this order.

The order cancelling NOC dated 27-05-2016 through the impugned notice is set aside. The 3rd respondent is directed to treat the notice dated 13-06-2016 as a show-cause notice, receive explanation from petitioner, consider the explanation and pass appropriate orders in accordance with law, within six weeks from the date of receipt of representation. The petitioner is given liberty to represent within two weeks from the date of receipt of this order.

The parties are directed to maintain status-quo as regards structure and possession of ‘Batch Mix and Hot Mix Drum Plant’ for a period of eight weeks from today.

Accordingly, the writ petition is disposed of as indicated above. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

S. V. BHATT, J

Dt: 23-06-2016

Prv

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23-06-2016

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