

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

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WRIT PETITION No.18218 OF 2016

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed to declare the action of the respondents in rejecting the petitioners' application dated 07.05.2016 vide Transaction ID No.EA011600019418 on 13.05.2016 for regularization of existing fresh water aquaculture farm which is existing prior to 2003 in R.S.Nos.377/1B,3, 385/1A, 2,3 in an extent of Ac.3.04 cents of land in Vemula Devi Village of Narasapuram Mandal, as arbitrary and illegal and violation of G.O.Ms.No.7, Animal Husbandry, Diary Development and Fisheries (Fish-II) Department, dated 16.03.2013.

2. Grievance of the petitioners is that though they filed application for regularization of existing fresh water aquaculture farm the same was rejected on 13.05.2016 by using E-platform, which is evident from the copy taken online through Transaction ID No. EA011600019418. .

3. It is the contention of learned counsel for the petitioners that the procedure as contemplated in G.O.Ms.No.7, Animal Husbandry, Diary Development and Fisheries (Fish-II) Department, dated 16.03.2013 and G.O.Ms.No.15, Animal Husbandry, Diary Development and Fisheries (Fish-II) Department, dated 26.05.2015 for regularization of existing fresh water aquaculture farm has not been followed. He further submits that no official visited the petitioners' aquaculture farm and at any rate, the petitioners have not been issued any notice. The guidelines notified in G.O.Ms.No.7 dated 16.03.2013, particularly guideline No.5, mandates that the District Fisheries Officer of the concerned District shall receive the applications from the existing unregistered fresh water aquaculture farms and scrutinize those

applications with reference to the guidelines and place them before the District Level Committee (DLC), who after considering all the aspects and arranging for inspections, if needed, shall place the same before the District Collector and Chairman, District Level Committee, along with its recommendations for rejection or modification or approval by stating the reasons thereof.

4. While so, the instructions placed by the learned Government Pleader discloses that the application filed by the petitioners has been rejected on the ground that the petitioners do not have clear title to the land in question. As per clause 7.1 of G.O.Ms.No.7, dated 16.03.2013, the applicant shall have a clear title of land in his name or shall be a lease holder of the land for a minimum period of five years and as per Clause 7.12, there shall be a minimum distance of three metres between the fresh water aquaculture farm and the neighbouring agricultural lands.

5. A perusal of G.O.Ms.No.7, dated 16.03.2013, discloses that the District Level Committee consists of as many as nine members of different departments. Online application was made by the petitioners on 07.05.2016 and the rejection came to be passed on 13.05.2016 i.e., within a short period of six days.

It is to be noticed that 7th May, 2016 is Saturday and 8th May, 2016 is Sunday. Unless the District Level Committee meetings were held between 7th and 12th May, 2016, it is highly impossible to the District Level Committee to consider the application filed by the petitioners. Further, as per the guidelines issued in Clause 5 of G.O.Ms.No.7, dated 16.03.2013, the District Level Committee is required to be guided by the site inspections so as to verify whether fish tanks are in existence following the norms notified in G.O.Ms.No.7, dated 16.03.2013. Except stating that the petitioners do not have title to the land, no other reason is indicated in instructions for rejection of the

application of the petitioners for regularization of fresh water aquaculture farm. Consideration of petitioners' application *prima facie* does not appear to be in conformity with the procedure prescribed in G.O.Ms.No.7, dated 16.03.2013 and no useful purpose would be served in keeping the writ petition pending in the factual circumstances.

6. In those circumstances, the Writ Petition is allowed setting aside the rejection order, dated 13.05.2016, with a direction to the respondent authorities to consider the petitioners' application for regularization of fresh water aquaculture farm, strictly in terms of G.O.Ms.No.7, dated 16.03.2013. Before passing any order, if there is any defect, petitioners shall be informed so as to enable them to submit their explanation. It may be borne in mind that the petitioners' fish tanks are in existence since 2003 and huge amounts would have been spent in developing the fish tanks for all these years. The abrupt rejection of application without affording any opportunity would adversely affect the owners of fish tanks and such applications for regularization will have to be considered in diligent and careful manner. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

CHALLA KODANDA RAM, J

JUNE 09, 2016

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THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

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Date: 09.06.2016

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