

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

Writ Petition No.31763 of 2014

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Date: 04.02.2016

Between:

M/s.Sunny Ice Candy Plant rep. by its

Proprietor Danda Venkata Ratnam

W/o.Butchi Babu and another

.. Petitioners

and

Ponduru Grama Panchayat

rep. by its Village Executive Officer

Srikakulam District and 6 others

.. Respondents

**Counsel for the petitioners : Mr.Gade Venkateswara Rao
for Mr.Tarlada Rajasekhara Rao**

**Counsel for respondent Nos.1 & 2: Mr.Ravi Cheemalapati,
SC for Gram Panchayat**

Counsel for respondent Nos.3 & 6: AGP for Panchayat Raj

Counsel for respondent No.4: AGP for Industries & Commerce

Counsel for respondent No.5: Mr.M.Ravindra

**Counsel for respondent No.7: Mrs.K.Jayasree
for Mr.Vanam Viswanatham**

The Court made the following:

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Order:

This is the second Writ Petition in succession filed by the petitioners *albeit* with justification. Initially, by way of an urgent notice dated 30-05-2014, the Executive Officer of respondent No.1- Gram Panchayat has directed the petitioners to close their ice factory within three days. This notice was called in question in Writ Petition No.22211 of 2014. This Court, while agreeing with the plea of the petitioners that the said notice was in violation of the principles of natural justice, allowed the said Writ Petition by Order, dated 06-08-2014, by directing that the said notice shall be treated as a show cause notice as suggested by the Standing Counsel of respondent Nos.2 and 3 and permitting the petitioners to submit their explanation to the said notice within three weeks. It was further directed that on receipt of such explanation, respondent Nos.2 and 3 shall give the petitioners an opportunity of personal hearing, pass a reasoned order and communicate the same to them. Contrary to the said direction, the Executive Officer of respondent No.1 has passed the impugned order wherein it is stated that the Gram

Panchayat has considered the petitioner's explanation (filed after disposal of WP.No.22211 of 2014) and is not satisfied with the same. It was further observed that the running of the ice factory by the petitioner is causing noise pollution to the people living in the neighbourhood and because of the dampness created by the ice factory, there is a scope of the walls of the surrounding residential buildings getting spoiled. The impugned proceeding has, accordingly, directed the petitioners to remove the ice factory from the existing place.

Separate counter-affidavits have been filed by respondent Nos.1 & 2 and respondent No.3.

In the counter-affidavit filed by respondent Nos.1 and 2, the Panchayat Secretary has stated that he has taken charge on 01-10-2014. He has, however, fairly admitted that the impugned proceeding has not considered the contents of the explanation submitted by the petitioner except stating that the same is not satisfactory. He has offered, subject to the permission granted by this Court, that he will conduct a detailed enquiry after considering all the aspects and pass a reasoned order as directed by this Court in the previous Writ Petition.

In view of the fair admission of the Panchayat Secretary of respondent No.2- Gram Panchayat that the impugned order does not conform to the requirement of the principles of natural justice and also that the same is not in consonance with the direction issued by this Court in WP.No.22211 of 2014, the impugned order is set aside. Respondent No.1 is directed to hold a detailed enquiry and after affording the petitioners an opportunity of personal hearing, pass a

speaking order and communicate the same to the petitioners and respondent No.7 within six weeks from the date of receipt of this order. It is needless to observe that till this process is completed, the respondents shall not interfere with the running of the ice factory by the petitioners.

The Writ Petition is, accordingly, allowed to the extent indicated above.

As a sequel to disposal of the Writ Petition, WVMP.No.4065 of 2014 in/& WPMP.No.39712 of 2014 are disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

Dt: 4th February, 2016

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