

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

C.C.No. 652 OF 2016

DATED 04TH NOVEMBER, 2016

Between:

Yarramsetti Venkata Ramana and others ... Petitioners

AND

Sri Arun Kumar, IAS,
District Collector/Chairman of District Level Sand Committee/
District Water Management Agency,
East Godavari District at Kakinada and another ... Respondents

Counsel for the petitioners : Sri V.S.R.Anjaneyulu

Counsel for respondent No. 1 : G.P. for Panchayat Raj (A.P.)

Counsel for respondent No. 2 : Sri N.Sreedhar Reddy

THE COURT MADE THE FOLLOWING

JUDGMENT:

This contempt case is filed alleging willful disobedience of order dated 21-01-2016 in W.P.No. 1694 of 2016.

2. I have heard learned counsel for the petitioners and learned Assistant Government Pleader for Mines and Geology (A.P.).

3. Before proceeding further, it needs to be noted that respondent No. 2 is reported to have died on 28-06-2016 and hence, the contempt case has abated against him. The petitioners filed the aforementioned Writ Petition with the grievance that respondent No. 2 was indulging in illegal excavation and transportation of sand from the rivers Vynateya and Vasishta in the guise of de-casting of his private land. This Court passed an *interim* order on 21-01-2016 which reads as under:

"Respondent No. 4 is, therefore, directed to take a serious view of the issue, hold a personal enquiry and submit his report on the allegations made by the petitioners and some of the villagers of as many as 227 villages in their representation, dated: 07-12-2015, within three weeks from the date of receipt of a copy of this order.

Post on 15-02-2016.

Meanwhile, respondent No. 4 shall also ensure that sand is not excavated and transported illegally from the above-mentioned rivers either in the guise of permit issued to respondent No. 8 or otherwise."

Alleging willful violation of the aforementioned order, the petitioners filed this contempt case. It is *inter alia* alleged by the petitioners that despite the order in W.P.No. 1694 of 2016 referred to above, respondent No. 2 was permitted to transport the illegally excavated sand.

4. On 03-06-2016, this Court, while ordering notice, directed respondent No. 1 to file a copy of the report called for by this Court in its order dated 21-01-2016 along with counter affidavit.

5. Respondent No. 1 has, accordingly, filed the copy of the said report. In the counter affidavit filed by respondent No. 1, it is *inter alia* stated that during the inquiry held by him, it was revealed that there was no illegal sand mining activity found in Vynateya and Vasishta rivers, that he has taken steps after receipt of representations dated 06-02-2016 by constituting Village level and Mandal level teams consisting of Revenue, Panchayat Raj and Police to curb illegal sand mining and transportation in the District, that the Government has announced free sand policy in the State vide Government Memo No. 3066/M.II(1)/2016-3 dated 04-03-2016, that in East Godavari District, 36 sand reaches were opened for supplying sand to public without charging any fee, thereby there is no scope for illegal sand activities. He has further averred that after announcing free sand policy, no complaints have been received from P.Gannavaram Mandal regarding illegal quarrying and transportation of sand.

6. At the hearing Sri V.S.R.Anjaneyulu, learned counsel for the petitioners, invited this Court's attention to the following portion of the inquiry report of respondent No. 1:

"The Joint Collector, East Godavari District, Kakinada has inspected the area on 04-02-2016 along with the Revenue Divisional Officer & Sub-Divisional Magistrate, Amalapuram and Asst. Director of Mines and Geology, Rajahmundry and reported that huge sand stocks were found in Sy.No.89/2, 3, 4 of L.Gannavaram Village, P.Gannavaram Mandal, over an extent of 1.56 Acs. At the time of my inspection sand transportation is going on with valid transit passes issued by the District Panchayat Officer, Kakinada, the transit passes are valid up to 15-02-2016. On the same day, I have instructed the Asst. Director of

Mines and Geology, Rajahmundry to measure the sand stocks and give detailed report in the matter."

Based on the above quoted part of the report, learned counsel for the petitioners contended that respondent No. 1 himself has admitted that at the time of inspection, sand transportation was going on and that, therefore, his report clearly proves that respondent No. 2 was guilty of violating the order of this Court for illegal sand quarrying and transportation and that respondent No. 1 is equally guilty for not ensuring such illegal activity by respondent No. 2 is not stopped. I am afraid I cannot accept this submission. The learned counsel for the petitioners has omitted to read the portion following the above quoted part in the inquiry report which reads as under:

"The Asst. Director of Mines and Geology, Rajahmundry has informed that, the sand stock yards were inspected by the Asst. Geologist of his office and surveyor with the Revenue Officials on 06-02-2016 and measured the sand stocks in Sy.No.89/2, 3, 4 of L.Gannavaram Village and reported that a quantity of 17,287 cums of sand is available in the stock yard. On verification of the records, 17,406 of sand is available. The variation is very limited because the sand stocks are irregular in shape, no deviation is found sand stocks. Further, the Asst. Director of Mines and Geology, Rajahmundry has reported that the de-casting of sand in the pattalands were not permitted since 21-06-2014. The lifting of sand from the stock yards were permitted by issuing transit passed by the District Panchayat Officer, Kakinada by 14-08-2015 onwards."

From both the parts of the inquiry report reproduced above, it is evident that during the inspection of Joint Collector on 04-02-2016 along with other officials, he has found huge sand stocks in survey Nos. 89/2, 3 and 4 of L.Gannavaram Village, P.Gannavaram Mandal, over an extent of Ac. 1.56 cents and that sand transportation was going on under transport permits issued by the District Panchayat Officer, Kakinada, which were valid up to 15-02-2016. Thus, the report merely referred to sand transportation under valid sand permits and there

is no whisper about the illegal sand quarrying. Therefore, the submission of learned counsel for the petitioners, that the report submitted by respondent No. 1 itself admitted illegal sand activity, has no basis. As submitted by the learned Assistant Government Pleader and also Sri N.Sreedhar Reddy, who appeared for respondent No. 2, who had instructions from respondent No. 2 during his lifetime, the sand already excavated earlier from the patta lands of respondent No. 2 was evidently stocked under license in the lands in survey Nos. 89/2, 3 and 4 of L.Gannavaram Village and that it is from the said sand stocks, that sand was being transported under valid transport permits.

7. Learned counsel for the petitioners while submitting that between 27-11-2015 when the Division Bench has passed order restraining respondent No. 2 from excavating sand without obtaining afresh permission till 15-02-2016, the date on which the learned single judge of this Court has disposed of W.P.No. 3313 of 2016 filed by respondent No. 2, there was no scope for the said respondent to excavate sand and that the photographs filed by him clearly show that sand was being excavated during that period. I have carefully perused the photographs which do not show any date on which they were taken. Mere assertion in the affidavit that respondent No. 2 illegally excavated sand during the said period cannot be accepted in the absence of any iota of evidence that such excavation has taken place during the said period. On the contrary, it is not disputed by the learned counsel for the petitioners that the sand already excavated by respondent No. 2, before he was restrained from such excavation, was stored near the river. The report of respondent No. 1 and also the counter affidavit filed by him would clearly show that it is from these sand stocks, that transportation under valid permits was being done. Since this Court has only prevented illegal excavation and transportation of sand from Vynateya and

Vasishata rivers, the act of transportation of sand under valid permits without excavation after 21-01-2016 does not constitute violation of the order passed on that date in W.P.No. 1694 of 2016.

8. For the aforementioned reasons, I do not find any merit in this contempt case and the same is, accordingly, dismissed.

9. As a sequel to dismissal of the contempt case, C.A.No. 382 of 2016 shall stand dismissed as infructuous.

Date: 04-11-2016.

JSK

C.V.NAGARJUNA REDDY, J.

