

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No. 42504 of 2016

Date : 5.1.2017

Between :

Bommu Rajasekhar Reddy S/o Anji Reddy
Atmakur village, Mangalagiri mandal
Guntur district

Petitioner

And

State of A P
Rep by its Principal Secretary,
Industries & Commerce (Mines-I) Department,
Secretariat, Hyderabad & others

Respondents

The Court made the following:



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ORAL ORDER:

Heard learned counsel for petitioner, learned Government Pleader for Mines and Geology (AP) for respondents 1 to 4 and learned Government Pleader for Revenue (AP) for respondents 5 and 6.

2. The application submitted by the petitioner for excavation of gravel over an extent of Ac. 11.20 in Survey No. 202/1, Atmakur village, Mangalagiri mandal, Guntur district was rejected by the Deputy Director of Mines and Geology-third respondent. Aggrieved thereby, petitioner preferred an appeal and the same was rejected. Thereafter, petitioner preferred revision before the Government. The revision was rejected by memo dated 11.11.2016, impugned in this writ petition. The earlier rejection of the application by the petitioner was on the ground that there was no land available for undertaking the excavation activity. Petitioner was informed that from out of Ac.89.20, Ac. 78.00 was allotted in favour of Mr.T Srinivasa Rao; Ac. 3.00 was in utilization by Z.P.High School, Atmakur; Ac.1.00 is occupied by Padmasali and other communities for burial ground and Ac.7.20 is covered under tank bund. By the time, the matter came up before the revisional authority, out of Ac.78.00 granted to Mr T Srinivas Rao land to an extent Ac.71.80 was only utilized and it is found that Ac.6.80 remained un-utilised but the same is now shown as buffer margin. Revision is rejected on the ground that the petitioner has applied for grant of excavation to an extent of Ac.11.20 in the land utilized for other purposes as mentioned above and such land is not available.

3. Question raised in the writ petition is that revisional authority conducted enquiry on 4.3.2016 and the matter was closed for passing orders. The actual orders are passed on 11.11.2016. The order in the revision would disclose that

after the case was closed, the revisional authority considered certain material obtained by it from the Director of Mines and Geology and based on that material, the revision was rejected. Learned counsel pointed out the averments made in the page 8 of the counter affidavit filed by respondent No.4, lends support to his assertion.

4. It is seen from the order of revisional authority that he has placed reliance in support of his decision material obtained after the case was closed for orders and without further opportunity to petitioner.

5. In view of admission by respondents, this contention of petitioner stands established.

6. At this stage, it is useful to extract the averments in page 8 of the counter affidavit filed by 4th respondent. It reads as under:

“It is respectfully submitted that the Revisional Authority has also obtained a detailed remarks from the Director of Mines and Geology on 13431/R3-3/2016 dated 23.3.2016.

.....
....

It is respectfully submitted that the Commissioner, APCRDA, Vijayawada vide Lr No. CRDA-13022(31)/17/2016-DEE 3 TT-CRDA dated 20.10.2016 has requested the District Collector, Guntur to reserve the minerals like Gravel / Aggregates / sand available in Sy No. 221 of Ananthavaram, Sy No. 484 of Neerukonda, Bethapudi, Survey No. 202/1 of Atmakuru, Survey NO. 47, 264, 94-96, 224, 228, 215 etc of Endroy & Lemalle, Survey No. 171 of Penumaka villages and issue necessary orders in the name of CRDA exclusively for the construction works in the capital city with immediate effect, duly canceling the existing leases and deferring the pending applications if any.”

7. Subsequent events cannot influence a decision made by a quasi judicial authority after he heard the parties and reserved to pass orders. The order under challenge is liable to be set aside on the sole ground that quasi judicial authority while considering the revision, erroneously taken into consideration certain material behind the back of the petitioner and placed reliance on said material to hold against the petitioner.

8. In the counter affidavit, further justification is made by referring to orders passed by the Government in G.O.Ms.No. 177 Industries and Commerce (M.II) Department dated 16.12.2016 reserving the land for the purposes of utilisation by the Government and the Government authorized agencies only for infrastructure development activities in the capital city region. It is not known whether this issue was also placed before the revisional authority.

9. Therefore, the order under challenge is set aside and the matter is remitted to the Revisional Authority for consideration of the revision afresh by affording due opportunity to the petitioner. It is for the competent authority to supply all the relevant documents which are sought to be relied upon and pass appropriate orders after affording further opportunity. Till the orders are passed by the revisional authority as directed above, no further excavation shall be undertaken on the subject land.

Subject to above, writ petition is allowed. No costs. Having regard to the same, miscellaneous petitions, if any pending, are closed.

DATE:5.1.2017
TVK

P NAVEEN RAO,J

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