

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SMT JUSTICE T.RAJANI

Writ Appeal No.661 of 2017

JUDGMENT: (Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan)

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the Learned Single Judge in W.P.No.18014 of 2013 dated 20.04.2017. Respondents 1 and 2 herein filed the said writ petition to declare the order passed by the Revenue Divisional Officer according permission to the appellant herein for conversion and use of their agricultural land, of an extent of Ac.3.32 cents in Survey No.148/6 of Chedulapakam Village, for non-agricultural purposes for establishing a Ready Mix Concrete Unit through his proceedings dated 17.02.2013, without considering their representations dated 04.12.2012, 05.12.2012 and 22.01.2013, as illegal, arbitrary and in violation of Rule 4 of the A.P. Andhra Pradesh Agricultural Land (Conversion for Non-Agricultural Purposes) Rules, 2006 (for short "the Rules"). They also questioned the consent order passed by the Environmental Engineer, A.P. Pollution Control Board, by his proceedings dated 15.03.2013, for establishing a Ready Mix Concrete Unit by the appellant herein as arbitrary and illegal.

By the order under appeal, the Learned Single Judge allowed the writ petition, and set aside both the orders restraining the appellant herein from operating the Ready Mix Concrete Plant; and directed the Revenue Divisional Officer and the Environmental Engineer to consider the objections filed by the respondent-writ petitioners afresh, after making a fresh inspection of the land belonging to the appellant herein and after putting the respondent-writ petitioners on notice, and pass a reasoned order.

After the writ petition was disposed of, the Environmental Engineer, A.P. Pollution Control Board, caused an inspection of the unit of the appellant herein on 27.05.2017, and submitted an analysis report stating that the prevailing SPM levels were found to be 96.85ug/m³. Sri G.Ramachandra Rao, learned Standing Counsel for the A.P.Pollution Control Board, would submit that the prevailing SPM levels were below the prescribed standards of 100ug/m³.

Sri D.Prakash Reddy, learned Senior Counsel appearing on behalf of the appellant, would draw our attention to the representations submitted by the respondent-writ petitioners to the Revenue Divisional Officer wherein the objection taken by them, regarding grant of permission for conversion of land from agriculture to non-agricultural purposes, is based on their apprehension of pollution being caused in the said area. Learned Senior counsel would submit that, since the respondent-writ petitioners' apprehension is now shown to be unfounded in the light of the report of the Environmental Engineer, the direction to the Revenue Divisional Officer, to consider the respondent-writ petitioners' representations/objections under Rule 4 of the Rules, is a needless formality.

The report of the Environmental Engineer does show that the emissions caused by the appellant herein are within the limits prescribed by the Pollution Control Board. It does also appear that the respondent-writ petitioners' objections, to the Revenue Divisional Officer granting permission for conversion of land from agricultural to non-agricultural purposes, are based on their apprehension that establishing the unit would cause pollution and adversely affect the surrounding areas.

Rule 4 of the Rules prescribes the procedure to be followed by the competent authority, and thereunder the competent authority i.e the

Revenue Divisional Officer, who receives the applications for conversion of agricultural land for non-agricultural purposes, may, among others, invite objections in this regard if necessary. While Sri D.Prakash Reddy, learned Senior Counsel, would contend that it is for the Revenue Divisional Officer to exercise his discretion, whether or not to invite objections, Sri S.Lakshmi Narayana Reddy, learned counsel for the respondent-writ petitioners, would draw our attention to Clause (d) of Rule 4 of the Rules which obligates the Revenue Divisional Officer to take cognisance of the Master Plan and such other land use restrictions in determining whether the proposed conversion is objectionable or not. Grant of permission for conversion of agricultural lands for non-agricultural purposes is not a mere formality, and the Revenue Divisional Officer is obligated to consider the objections raised by the respondent-writ petitioners as also to ascertain whether the conditions stipulated in the A.P. Andhra Pradesh Agricultural Land (Conversion for Non-Agricultural Purposes) Act, 2006 (for short "the Act") and the Rules are fulfilled by the appellant herein, before according permission for conversion.

This Court had earlier, in its order dated 25.05.2017, recorded the submission of the Learned Standing Counsel that no coercive steps would be taken to stop functioning of the unit. As the report of the Environmental Engineer now shows that emissions from the appellant-unit are within permissible limits, we see no reason to direct closure of the unit pending a decision being taken afresh by the Revenue Divisional Officer under Rule 4 of the Rules. The fact, however, remains that, since the respondent-writ petitioners had submitted their objections to the application submitted by the appellant for grant of permission for conversion, the Revenue Divisional Officer ought to have

taken these objections into consideration before passing orders on the application of the appellant.

We consider it appropriate, therefore, while directing the respondent-writ petitioners not to interfere with the functioning of the appellant-unit, as long as the emissions from the unit are within the limits prescribed by the A.P.Pollution Control Board, to direct the Revenue Divisional Officer, in terms of the order of the Learned Single Judge, at the earliest and in any event not later than two months from the date of receipt of a copy of this order, to consider the objections submitted by the respondent-writ petitioners and examine whether the application submitted by the appellant satisfies the conditions stipulated both under the Act and the Rules. The Revenue Divisional Officer shall, thereafter, pass an order afresh in accordance with law. Needless to state that continuance of operations of the appellant-unit shall be subject to the orders to be passed by the Revenue Divisional Officer as directed hereinabove.

The order of the Learned Single Judge is modified accordingly, and the Writ Appeal is disposed of. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(T.RAJANI, J)

06th June, 2017
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Date: 06.06.2017

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