

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.9545 of 2017

ORDER:

This writ petition is filed under Article 226 of the Constitution of India, for the following relief:

“To issue writ or direction particularly in the nature of mandamus or any other appropriate writ, A). To declare the notice vide No.A3/2016, dated 28th February, 2017 on the file of the 3rd respondent as illegal, void, arbitrary, irrational and thereby violating the principles of natural justice. B) . Consequently, to set-aside the notice vide No.A3/2016, dated 28th February, 2017 on the file of the 3rd respondent.”

2. Heard the learned counsel for the petitioner and the learned Government Pleader for Fisheries for the respondents herein.

3. The respondent authorities granted permission vide Ref.DLC Resolution dated 16.03.2015 for aqua culture of the petitioners for a period of five years commencing from 16.03.2015 to 15.03.2020. The Deputy Director and Convenor of Fresh Water Aquaculture Authority, East Godavari District at Kakinada, the third respondent herein, issued an urgent notice bearing No.A3/2016/dated 28.02.2017, asking the petitioners to show cause as to why the aqua culture tanks of the petitioners herein should not be removed, within a period of 48 hours. Assailing the validity and the legal sustainability of the said notice, the present writ petition is filed.

4. According to the learned counsel for the petitioners, having issued the permission as long back as on 16.03.2015, there is absolutely no justification on the part of the respondent authorities in giving only 48 hours notice for the purpose of removal of aqua culture tanks and the respondents herein ought to have afforded the reasonable time for submission of the realities. According to the learned counsel for the petitioners, the said action is

violative of Articles 14 of the Constitution of India besides being opposed to the principles of natural justice.

5. On the contrary, it is submitted by the learned Government Pleader that the notice impugned in the present writ petition is only a show cause notice and the present writ petition is not maintainable and instead of approaching the third respondent by way of filing explanation, the present writ petition is filed.

6. There is absolutely no dispute with regard to the fact that the respondent authorities accorded permission in favour of the petitioners as long back as on 16.03.2015 and according to the petitioners they have been carrying on the aqua culture activities since then. In the considered opinion of this Court granting 48 hours time to show-cause for removal of the aqua culture tanks is highly unreasonable, in the facts and circumstances of the case.

7. For the aforesaid reasons, the writ petition is disposed of keeping it open for the petitioners herein to submit their explanation in response to the urgent notice dated 28.02.2017, within a period of two weeks from the date of receipt of this order and if any such explanation is submitted within the time stipulated above, the same be considered and appropriate action be taken in accordance with law. Till the consideration of the said explanation, there shall be *status quo* as on today with regard to the subject property of the petitioners. It is made clear, that in the event of the petitioners not submitting the explanation within the time stipulated above, this order will not enure to the benefit of the petitioners herein. As a sequel, miscellaneous petitions, if any, shall stand disposed of. There shall be no order as to costs.

A.V.SESHA SAI, J

Date:20.03.2017

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Dated 20.03.2017

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