

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

WRIT PETITION No.10145 of 2017

ORDER:

This Writ Petition filed under Article 226 of the Constitution of India challenges the proceedings bearing No.852/C1/2016, dated 06.01.2017, and the auction notice bearing No.852/C1/2016, dated 17.03.2017, issued by respondent Nos.2 and 3 respectively.

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

It is submitted by the learned counsel for the petitioner that the petitioner is a registered society under the provisions of the Cooperative Societies Act, 1964 bearing registration No.908/B/1992, dated 16.11.1992, and that when a duly constituted Managing Committee is in existence, the respondents cannot appoint another Committee to look into the affairs of the society. It is further submitted that the District Collector, 2nd respondent herein, appointed a Committee without giving any notice and affording opportunity of hearing to the present Committee and that there is no justification on the part of the respondents in holding public auction by way of the impugned auction notice, dated 17.03.2017.

On the other hand, it is submitted by the learned Government Pleader that the respondents initiated the impugned action pursuant to the orders of this Court in W.P.No.41302 of 2014, dated 05.12.2016. It is further submitted that the District Collector by way of the proceedings under challenge, dated

06.01.2017, constituted a Committee consisting of four members including the deponent of the present writ affidavit and, as such, there cannot be any complaint by the petitioner society.

The information available before this Court discloses that earlier three individuals, namely, Tokala Biksham, Dasari Nagaiah and Kantu Kittaiah filed W.P.No.41302 of 2016 before this Court questioning the action of the respondents in not granting leasehold rights for fishing to the Fishermen Cooperative Society, Voilasingaram Village, Ananthagiri Mandal, Suryapet District. In the said writ petition, the District Collector was shown as respondent No.3. This Court by way of an order, dated 05.12.2016, disposed of the said writ petition. The operative portion of the said order reads as under:

“He further submits that a decision keeping in view the recommendations of respondents 4 and 5 will have to be taken by the 3rd respondent and the 3rd respondent will take a decision whether the department on its own undertakes fish operations of subject Cheruvu or gives it a Committee on conditions and the same will be taken within one week from today.

The statement is placed on record.

The 3rd is directed to examine and take a decision to protect the valuable rights of petitioners as well as the harvest available in Cheruvu within one week from today.

The petitioners are given liberty to communicate a copy of this order to respondents 3 to 5.

The writ petition is disposed of accordingly. No order as to costs.”

Obviously, in furtherance of the above said order and as per the directions of this Court, the respondents herein issued the impugned proceedings, proposing to proceed with the public auction. It is required to be noted, as pointed out by the learned Government Pleader, that the deponent of the present writ affidavit is also one of the Members of the Committee constituted under the

impugned proceedings, dated 06.01.2017. Since the respondents are proceeding with the impugned action pursuant to the orders of this Court in W.P.No.41302 of 2016, this Court does not find any valid reason to interdict the said proceedings.

For the aforesaid reasons, the writ petition is dismissed.

Miscellaneous petitions, if any pending, shall also stand dismissed. There shall be no order as to costs.

A.V.SESHA SAI, J

Date: 27.03.2017
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