

HON'BLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No.12202 of 2017

ORDER:

This Writ Petition, filed under Article 226 of the Constitution of India, challenges the notice bearing No.RCB.189/2017, dated 28.03.2017, issued by the 3rd respondent - Tahsildar, Thotapalli Gudur Mandal, SPSR Nellore District.

2. Heard Sri G. Vijaya Babu, learned counsel for the petitioner as well as the learned Government Pleader for Fisheries appearing for the respondents and perused the material on record.

3. The petitioners are owners of lands admeasuring Ac.1.75 cents in Sy.Nos.282/1D, 283/1C, 283/2B, 283/2C and an extent of Acs.2.05 cents in Sy.Nos.283/1A and 283/B of Thotapalli Gudur Bit-1 Village and Mandal, SPSR Nellore District. Earlier, the competent authorities by way of Registration No.31/2016, dated 15.02.2016, and No.45/2016, dated 06.06.2016, granted permissions in favour of the petitioners for digging fish tanks, as per G.O.Ms.No.7, dated 16.03.2013; and G.O.Ms.No.15, dated 26.05.2015, of AH.DD & Fisheries Department. On the complaints said to have been made by the neighbouring ryots, by way of urgent notice dated 28.03.2017, which is under

challenge in this writ petition, the 3rd respondent – Tahsildar directed the petitioners to stop aqua-culture in the subject lands.

4. According to the learned counsel for petitioners, the said action of the 3rd respondent is highly illegal, arbitrary and violative of the principles of natural justice. It is submitted by the learned counsel for petitioners that the permissions granted in favour of the petitioners for aqua-culture are subsisting till date. It is further submitted by the learned counsel that the 3rd respondent issued the impugned notice without being preceded by any show-cause notice and without giving opportunity of hearing to the petitioners.

5. On the contrary, it is submitted by the learned Government Pleader for Fisheries that since the petitioners are not adhering to the guidelines prescribed in G.O.Ms.No.7, dated 16.03.2013, the respondents are perfectly justified in issuing the impugned notice and there is no illegality nor any procedural infirmity in the impugned notice issued by the 3rd respondent and hence the writ petition is liable to be dismissed.

6. There is absolutely no dispute with regard to the fact that on 15.02.2016 and 06.06.2016 permissions were granted in favour of the petitioners for doing aqua-culture in the subject lands as per the guidelines prescribed in

G.O.Ms.No.7, dated 16.03.2013, and the said permissions are still intact. In the instant case, basing on the complaints said to have been made by certain neighbouring ryots, the impugned action came to be resorted to by the 3rd respondent. It is settled and well established proposition of law that any action, which has civil consequences, must necessarily be preceded by notice and opportunity of hearing to the persons likely to be effected by such action. In the instant case, the same is followed in breach. Therefore, on this ground alone, the impugned notice is liable to be set aside.

7. Accordingly, this writ petition is allowed, setting aside the impugned urgent notice dated 28.03.2017 issued by the 3rd respondent. It is open for the respondents to take appropriate action in accordance with law, after giving notice and opportunity of hearing to the petitioners and all the stakeholders. No order as to costs.

8. As a sequel, Miscellaneous Petitions pending consideration, if any, in the Writ Petition shall stand closed.

JUSTICE A.V. SESA SAI

10.04.2017.

NOTE: Issue C.C. in two days.
(B/O)
Msr

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Msr