

THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.9789 of 2012

ORDER:

Heard Sri Eranki Phani Kumar for petitioner, Assistant Government Pleader for Revenue for 1st respondent, Assistant Government Pleader for Medical and Health for 2nd respondent, Assistant Government Pleader for Municipal Administration for 3rd respondent, Sri Cheemalapati Ravi Standing Counsel for 4th respondent and Sri T.V.S.Prabhakara Rao for 5th respondent.

The petitioner prays for Mandamus declaring the action of respondents 2 and 4 in sanctioning establishment of Poultry Farm by 6th respondent as arbitrary and unconstitutional. The petitioner further prays for a direction to these respondents to withdraw permission granted in favour of 5th respondent for establishment of Poultry Farm under the name and style "Sri Ramya Poultry Farm".

The petitioner raises several factual and legal grounds and complains contravention of guidelines of statutory authorities in establishing Poultry Farm by 5th respondent. However, all these details are not adverted to except the following.

It is alleged that on 21-04-2011 the General Body of 4th respondent on the strength of the following orders

"(i) Order in L.Dis.No.527/ 2011-R1 date: 15.4.2011 of the Deputy Director of Town and Country Planning, Rajahmundry.

(ii) Orders of the District Medical and Health Officer in D.Dis.No.69/ MP HEO/ 2011 dated 11.4.2011.

(iii) Order in D.Dis.No. / 2011 date:16.4.2011 of the District Small Industries Officer, Kakinada.”

approved the request for constructing poultry farm. The petitioner thereafter applied under the Right to Information Act before 6th respondent for furnishing copies of the proceedings on which the 4th respondent relied upon or that whether a permission in fact has been granted by the 6th respondent. On 09-02-2012 as is evident from Ex.P-10, the petitioner received reply and the reply reads thus:-

“With reference to letter cited above, it is informed that no proceedings have been issued by office with date:16.04.2011.”

From the above, Si Eranki Phani Kumar contends that the proceedings on which the 4th respondent relied upon are not legal and on the contrary, according to him are fabricated and such fabricated documents ought not to be the basis for according permission to 5th respondent for establishing a poultry farm. Therefore, he prays for setting aside the permission granted in favour of 5th respondent.

Learned counsel for respondents, however, contend that the reply dated 09-02-2012 cannot and could not be treated as a comprehensive or complete reply on the efforts undertaken by 5th respondent for obtaining information from 6th respondent, when the matter requires proper verification and request the Court not to come to conclusion on the strength of reply dated 09-02-2012 vis-à-vis impugned orders.

I have perused the material available on record. *Prima facie*, it appears that the petitioner has been objecting to the establishment of poultry farm by 5th respondent. The petitioner is in the neighbourhood of 5th respondent. The odour nuisance from the poultry farm is one of the reasons for the petitioner to complain against this establishment. Further, according to the guidelines in vogue, before permission for establishing a poultry farm is considered and granted, the Gram Panchayat, clearance from Medical and Health Department and no objection from District Industries etc., are obtained.

In the case on hand, the complaint of petitioner is that the very basis on which the resolution has been passed is on the fabricated document.

This Court is the view that whether the orders, which the 4th respondent relied upon or not, are genuine is matter for verification and examination by the authorities, who are said to have issued these proceedings. Therefore, with a view to find out whether the proceedings on which respondents 4 and 5 have relied upon are genuine or fabricated and thereafter proceed to decide the issue of establishment of poultry farm accordingly, the writ petition is disposed of by granting following relief :-

- (a) The petitioner is given liberty to represent to respondent Nos.2 and 6 with all the objections against the establishment of poultry farm by 6th respondent by

enclosing a copy of this order within six weeks from today.

(b) Respondent Nos.2 and 6 are directed to examine each one of the obligations of petitioner, afford opportunity to 5th respondent as well and take a decision within eight weeks from the date of receipt of representation from petitioner.

(c) Subject to the outcome of above exercise or the reply the petitioner receives from respondents 2 and 6, the 4th respondent is under obligation to reconsider the grant of permission to 5th respondent for establishment of poultry farm. It is made clear that respondents 2 and 6 afford opportunity to 5th respondent in any enquiry held in this behalf.

The writ petition is disposed of as indicated above. No order as to costs.

Miscellaneous petitions, if any, pending, shall stand closed.

Dt: 06-02-2017
Pv

S. V. BHATT, J

