

HON'BLE SRI JUSTICE S.V.BHATT

W.P. No.10527 OF 2008

ORDER:

Heard Mr.T.V.S.Prabhakara Rao for petitioner, the Government Pleaders for Panchayat Raj and Industries & Commerce, Mr.Ravi Cheemalapati and Mr.S.V.R.Subramanyam for respondents.

The petitioner was granted permission for construction of rice mill through proceedings MLR No..../2007-08 dated 12.04.2007 by 3rd respondent. The 1st respondent passed the proceedings impugned in the writ petition which reads thus.

"Roc.No.2189/2006 A1 Pts. Office of the District Panchayat Officer
West Godavari, Eluru, dated 23.4.2008

Sub: Rice Mill-Gram Panchayat-Iragavaram of Iragavaram Mandal- Construction of Rice Mill very closer to Montessori Public School-Non Obtaining of certificate from pollution control board and Medical and health Department-Cancellation of Permission – Instructions-Issued.

Ref:1)Representation dated 17.4.2008 of the Director, Montessori Public School,Iragavaram.

2)Report dated 22.4.2008 of the Panchyat Secretary, Gram Panchayat,Iragavaram.

3)Report Roc.No.363/2008-A, Dated 22.4.2008 of the Divisional Panchayat Officer, Kovvur.

4)Roc.No.262/2008/F, Dated 2.2.2008 of the General Manager, District Industries Centre, Eluru.

5)M.L.R.No. /2007/089 (sic), Dated 12.4.2007 of the Panchayat Secretary Gram Panchayat,Iragavaram.

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In view of the circumstances explained in the reference 2nd and 3rd cited above, since the permission given by the Gram Panchayat, Iragavaram in the reference 5th cited is deviating the specifications given by the General Manager, District Industries Centre, Eluru for

the construction of rice mill i.e. not closure to School, the permission given by the Gram Panchayat for construction of the Rice Mill through the reference 5th cited is liable to be cancelled.

Therefore, the Panchayat Secretary, Gram Panchayat, Iragavaram is directed to take immediate action for cancellation of the permission given earlier for construction of rice mill.

In the mean while the construction, opening and running of Venkata Lakshmi Rice Mill at Iragavaram nearer to Montessori Public School is hereby stayed. The Panchayat Secretary, Gram Panchayat, Iragavaram is directed to implement the above instructions and submit report immediately.

Sd/-V.Nagarjuna Sagar
District Panchayat Officer,
West Godavari, Eluru”

The principal objection of petitioner against the proceedings dated 23.04.2008 is that the construction permission dated 12.04.2007 for all purposes was not challenged by any one including 4th respondent by filing an appeal before the General Body of Gram Panchayat or as provided under the Act. On the representation dated 17.04.2008 made by 4th respondent, it appears, the 1st respondent called for report from 3rd respondent and basing on the report without affording any opportunity, directed 3rd respondent to take immediate action for cancellation of permission and directed stay of further construction by petitioner.

The 1st respondent in spite of receipt of notice did not file counter affidavit. Therefore, this Court is constrained to conclude that the allegation of not issuing notice to petitioner before issuing the proceedings impugned in the writ petition remains un-rebutted and on that ground alone, the proceedings can be set aside. Not

only the 1st respondent but also the other respondents did not file counter affidavit. For the reasons stated above, the proceeding dated 23.04.2008 is set aside. The 3rd respondent if is of the view that the construction of rice mill by petitioner requires examination, the 3rd respondent is given liberty to issue notice and proceed in accordance with law.

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

Miscellaneous petitions pending, if any, shall stand closed.

Date:07.03.2017
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S.V.BHATT,J

