

HON'BLE SRI JUSTICE S.V. BHATT

W.P. No.16722 OF 2016

ORDER:

Heard Mr.M.Pitchaiah for petitioners and Mr.K.Subba Rao for respondents 1 to 3.

The petitioners pray for Mandamus declaring the inaction of respondents in regularising the constructions raised by petitioners in Survey No.86 of Bhanoji Thota, Gajuwaka Mandal, Visakhapatnam District and attempting to demolish the structures raised by the petitioners, as illegal, arbitrary, unconstitutional and contrary to G.O.Ms.No.296 Revenue (Assignment-I) Department dated 12.08.2015. The petitioners pray for a direction to respondents to regularise their constructions in Survey No.86 of Bhanoji Thota in terms of G.O.Ms.No.296 dated 12.08.2015.

Through G.O.Ms.No.296 dated 12.08.2015, the 1st respondent introduced scheme for regularisation of unobjectionable encroachments in Government land in urban areas to an extent of 100 square yards occupied by persons from below the poverty line at free of cost. The petitioners claim to have applied for regularisation of possession and constructions raised by the petitioners in Survey No.86 of Bhanoji Thota. The cause of action for filing the writ petition is that when the applications filed by petitioners for regularisation are pending with the respondents, the respondents are attempting to dispossess the petitioners or demolish the structures in the subject matter of writ petition. On 26.05.2016,

this Court directed maintenance of *status quo* as regards constructions in Survey No.86 of Bhanoji Thota.

The respondents filed petition to vacate the interim order and by way of reply in the counter affidavit, it is stated that the applications of petitioners are examined as per the policy in G.O.Ms.No.296 and they were rejected, and the rejection is also displayed on Visakhapatnam District website. The operative portion of the counter affidavit reads as follows:

“It is respectfully submitted that the writ petitioners have applied for regularization of their encroachments with the following application numbers through mee-seva and they were disposed off in terms of G.O.Ms.No.296 as shown below:

Sl. No.	Name of the applicant	Application No.	Result of application	Reason for rejection	Date of rejection
1.	Darapu Kanaka Durga, W/o.Eswara Rao	VZG1001-50-60828	Rejected	Dwelling after 01.01.2014	19.01.2016
2	Nirujogi Chinnammulu W/o.Appala Naidu	VZG1001-50-72983, VZG1001-50-73858	Rejected	Vacant land Dwelling after 01.01.2014	18.04.2016 06.05.2016
3.	Janumuri Radha, W/o. late Thata Babu	VZG1001-50-72819	Rejected	Dwelling after 01.01.2014	16.04.2016
4.	Adireddy Chinnamma w/o.Appala Naidu	VZG1001-50-72985, VZG1001-50-73863	Rejected	Dwelling after 01.01.2014, Dwelling after 01.01.2014	07.05.2016
5.	Andala Lakshmi, W/o.Srinivas	VZG1001-50-72933	Rejected	Dwelling after 01.01.2014	18.04.2016
6.	Mudalavalasa Bhulakshmi, W/o.Surya Narayana	VZG1001-50-72928	Rejected	Dwelling after 01.01.2014	18.04.2016
7.	Gavireddy Kannatalli, W/o.Gavireddy Eswara Rao	VZG1001-50-72991	Rejected	Dwelling after 01.01.2014	18.04.2016
8.	Bailapudi Ramanamma, W/o.Naidu	VZG1001-50-72988	Rejected	Extent occupied more than 100 sq. yds.	18.04.2016
9.	Harisanka Chilakamma, W/o.Apparao	VZG1001-50-71201	Rejected	Dwelling after 01.01.2014	16.03.2016
10.	Vasanth Parvathi, W/o.Appala Naidu	Not applied			
11.	Chapa Sinkamma, W/o.Malleswara Rao	Not applied	...	...	...
12.	Gunta Padmavathi, W/o.Vykuntam	VZG1001-50-73318	Rejected	Dwelling after 01.01.2014	23.04.2016

It is respectfully submitted that the rejection orders are displayed in the Visakhapatnam District Website for the knowledge of the applicants and no other communication is given to the applicants as more than 10 thousand applications were received for regularization in terms of G.O.Ms.No.296 and the rejections were not challenged.”

In view of the stand taken in the counter affidavit, for all purposes, the prayer as made in the writ petition cannot and could not be considered, and the petitioners have to work out the remedies available under the very scheme under which regularisation is sought for.

Mr.Pitchaiah realizing this difficulty contends that the rejection cannot and could not be taken note by this Court, for the rejection is not communicated to the petitioners and therefore will have the legal effect of an un-communicated order, and prays for direction to regularise the occupation.

After going through the scheme of regularisation, its object etc., this Court is of the view that the objection is required to be noted but liable to be rejected *in limine*. For appreciating this contention, Paragraph 12 of G.O.Ms.No.296 is excerpted hereunder:

“12. Processing of Applications

- a) All applications received in “Mee Seva” shall be forwarded to the concerned Tahsildar.
- b) A Divisional Level Regularization Committee (DLRC) shall be constituted with the following officers:
 - i. Sub-Collector/Revenue Divisional Officer –Chairman
 - ii. Town Planning Officer of concerned Municipal area-
Member
 - iii. Tahsildar concerned - Member & Convener

- c) The Tahsildar will conduct a detailed inspection in respect of each application and make recommendation to the DLRC for taking a decision on the eligibility of the applicant. The District Collector/CCLA may prescribe a suitable Check List for use of the Tahsildar.
- d) After the decision of the DLRC, the Tahsildar will issue assignment order and prepare House site patta in the name of woman member of a family and distribute to the beneficiaries in a public function. In case of woman member is not available, the eldest male member may be considered.
- e) Each application shall be disposed off within ninety (90) days of its receipt.
- f) An Appeal on the decision of the DLRC shall lie with Joint Collector-1 within a period of ninety (90) days.”

From the above it is clear, the authorities, if are proposing to regularise the occupation, the procedure contemplated at various stages has to be followed. The authorities by the checklist under the scheme are not under obligation to individually communicate the orders passed on the applications filed for regularisation. The counter affidavit refers to displaying the rejection order on website. In the absence of rebuttal and keeping in view the writ prayer, this Court is unable to accept the contention raised by Mr.Pitchaiah. Now there is information that the applications are rejected. Under the scheme, the applicants, who are not satisfied with the decision, are given liberty to file appeal before the Joint Collector within 90 days. For the above reasons, this Court is not inclined to consider the writ prayer, however, the petitioners, who are interested in working out the remedy of appeal, are given liberty to file appeal by enclosing a copy of this order within 30 days from the date of

receipt of this order. The Joint Collector to examine and pass orders on the merits of each one of the claims.

The writ petition is dismissed with the observations.

Miscellaneous petitions pending, if any, shall stand closed.

S.V.BHATT, J

Date: 23.08.2017

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