

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION Nos.17320 AND 3169 OF 2017

COMMON ORDER:

These two writ petitions are being disposed of by this common order as they arise out of identical circumstances of proposed action for demolition of their fish tanks pursuant to a decision taken by the District Level Committee in its 79th Meeting.

The petitioners in W.P.No.17320 of 2017 state that they along with others have agricultural lands admeasuring Ac.33.20½ cents in Survey Nos.184/1A, 184/1B, 184/1C, 184/2A, 184/2B, 184/3, 186/4, 190/1, 190/2, 190/3, 190/4, 190/5 and 191 of Ponangi Village, Eluru Mandal, West Godavari District. They obtained registration of their fish tanks on 12.05.2016 under G.O.Ms.No.7, Animal Husbandry, Dairy Development and Fisheries Department, dated 16.03.2013. While so, a notice was issued by the third respondent on 04.04.2017 alleging that they obtained registration certificate without any prior permission in respect of fish tanks and in the circumstances, while asking their explanation, the authorities wanted to demolish the fish tanks. In those circumstances, challenging the notice dated 05.05.2017, the petitioners filed the writ petition.

The first petitioner in W.P.No.3169 of 2017 states that he is the absolute owner of land of an extent of Ac.3.33 cents in Survey No.633 of Gundugolanu Village, Bhimadole Mandal, West Godavari District and the second petitioner owns an extent of Ac.37.76 cents in Survey Nos.141, 142, 143, 144, 145, 575, 576, 588 and 589 of Gundugolanu Village, Bhimadole Mandal, West Godavari District. Though they applied for provisional permission, a Certificate of Registration was only granted pursuant to G.O.Ms.No.7, dated 16.03.2013. Alleging interference by the third respondent, they filed the above writ petition and this Court by order dated 31.01.2017 directed the third respondent not to interfere with the

lands of the petitioners, but held that the petitioners are not entitled to deviate the terms of the provisional permission.

Now the Government filed a counter affidavit stating that the petitioners in W.P.No.3169 of 2017 applied for revalidation of the existing fish tanks in an extent of Ac.37.76 cents without having any provisional/final registration of the existing tanks. As per the guidelines issued in G.O.Ms.Nos.7 and 15, dated 16.03.2013 and 26.05.2015 respectively, existing tanks are entitled for regularization upto 31.03.2017 by paying prescribed fee and petitioners obtained the permission for the revalidation but not the provisional permission.

The stand of the Government in both the writ petitions is that the petitioners approached this Court by misstating that the permission obtained by them was provisional permission and they obtained a revalidation of the existing fish tanks by taking advantage of the above Government Orders even though they are not entitled. It is also their further case that the existing fish tanks are entitled for regularization under the said Government Orders when they were operating under valid permissions earlier but no such permissions were obtained by the petitioners.

Be that as it may, the points, whether the existing fish tanks of the petitioners were having permission prior to issuance of the Government Orders and the petitioners are entitled for revalidation, are required to be examined by the competent authority and in respect of the petitioners in W.P.No.17320 of 2017, a notice was already issued, and in respect of the petitioners in W.P.No.3169 of 2017 also action is proposed to be taken in spite of the certificates already obtained by them.

In view of the above circumstances, liberty is given to the petitioners to submit their explanations/objections with regard to the nature of the fish tanks and their entitlement for regularization under Government

Orders vide G.O.Ms.Nos.7 and 15, dated 16.03.2013 and 26.05.2015 respectively, within fifteen days from the date of receipt of a copy of this order and the District Level Scrutiny Committee shall consider their explanations/objections and pass appropriate orders thereon on the basis of the record available within thirty days thereafter. Till such time, the fish tanks of the petitioners in both the writ petitions shall not be disturbed by the respondents. It is made clear that if the petitioners do not file their reply/objections within fifteen days as aforesaid, it is open to the respondents to take appropriate action in accordance with law.

The writ petitions are accordingly disposed of. Consequently, miscellaneous petitions pending, if any, shall stand closed.

11.08.2017

Note: Issue CC by 18.08.2017.
(By order)
pln

A.RAMALINGESWARA RAO, J

