

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.42926 of 2017

ORDER:

In this writ petition, under Article 226 of the Constitution of India, filed by the petitioner, the challenge is by one of the members of the Ward of the 4th respondent Municipality to the Resolution No.1351, dated 27.11.2017, passed by the Council of the 4th respondent Municipality, whereby it was resolved to lease out vacant site of Bandila Doddi (cattle pound) in an extent of Ac. 0.02 cents, situated in Survey No.417/P by way of a public auction of the leasehold rights of the said property by fixing an upset price.

2. I have heard the submissions of Sri *Dasari S.V.V.S.V. Prasad*, learned counsel appearing for the petitioner, the learned Government Pleader for Municipal Administration and Urban Development appearing for the respondents 1 & 2, learned Government Pleader for Revenue appearing for the 3rd respondent, and of Sri *N.Venkateshwarlu*, learned Standing Counsel, appearing for the 4th respondent Municipality. I have perused the material record.

3. Learned counsel for the petitioner submits that despite a representation, dated 05.12.2017, to the Government of Andhra Pradesh, i.e., the Chief Secretary to Government of Andhra Pradesh, State of Andhra Pradesh, Amaravathi, no action has been taken. Therefore, the writ petition is filed.

4. During the course of hearing, learned counsel for the petitioner fairly conceded that the Government are the Controlling Authority as per the provision of Section 59 of the A.P. Municipalities Act, 1965, and that the Government have the power to cancel or suspend the

Resolution passed by the Council, if any, either *suo motu* or on the representation of any member, subject to conditions laid down in the said provision of law. Therefore, at the hearing, he submits that if this writ petition is disposed of giving a direction to the Government of Andhra Pradesh to consider and dispose of the said representation of the petitioner, the ends of justice would be met.

5. Learned Standing Counsel appearing for the 4th respondent Municipality endorses the said submission.

6. Recording the submissions, the Writ Petition is disposed of directing the Government of Andhra Pradesh to consider and dispose of the representation, dated 05.12.2017, of the petitioner, in strict accordance with the procedure established by law, however, within a period of four (04) weeks from the date of receipt of a copy of this order and communicate the decision taken thereon to the petitioner within a week thereafter. It is made clear that the petitioner is also entitled to request the Government of Andhra Pradesh to exercise the powers under the said Section of Law referred to supra for suspension of the Resolution, pending final decision of the Government on the representation of the petitioner. Till the petitioner makes such a request for interim suspension of the Resolution of the Municipal Council, which is impugned in this writ petition, there shall be a direction to maintain *status quo* for a period of three (03) weeks till the date of receipt of a copy of this order.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

JUSTICE M. SEETHARAMA MURTI

Date: 21st December, 2017
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