

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

W.P.No.40330 OF 2017

O R D E R:

This writ petition is filed seeking the following relief:

“To declare the notice dated 1.11.2017 issued by the 4th respondent to the petitioner herein, as illegal, arbitrary, unjust, contrary to the provisions of G.O.Ms.No.07, dated 16.03.2013 and subsequent G.Os. No.15 and 48 and also violation of Article 14 and 300–A of the Constitution of India and consequently set aside the notice dated 1.11.2017 by directing the respondents to consider the application submitted by the petitioner herein on 22.11.2017 for regularization of the water aqua culture business.”

[Reproduced verbatim]

Heard learned counsel for the petitioner and learned Government Pleader for Fisheries appearing for respondents 1 to 4. Perused the material on record.

The learned counsel for the petitioner would submit as follows:
‘The petitioner is doing aqua culture for the last twenty years in the land of an extent of 1.96 cents of the petitioner in Sy.No.496/2 in Kesanakurra village of I. Polavaram Mandal, East Godavari District. While so, the 4th respondent issued a notice, on 1.11.2017, *inter alia* stating that the petitioner is carrying on illegal aqua culture without obtaining necessary permissions and asking the petitioner to close down the said culture within three days. After such notice was issued, the petitioner made an application, on 22.11.2017, through Mee-Seva to the authority concerned for provisional registration and has also paid the necessary charges for consideration of the said application of the petitioner. Pending consideration of the said application, the

impugned notice was issued at the behest of the 5th respondent, who did not raise any objection for the aqua culture being done by the petitioner since last 20 years. While so, the authorities of the official respondents came to the land of the petitioner and demanded him to close the business without considering the application of the petitioner. In the impugned notice, the survey number is mentioned as 495/2 though the land of the petitioner is in Sy.no.496/2.

Learned Government Pleader for Fisheries, on instructions, would submit that even as on 27.11.2017, the petitioner is continuing unauthorized culture of L.Venammei inspite of issuance of notice, dated 01.11.2017, and, therefore, petitioner is liable for action for violation of the guidelines prescribed for fresh water fish culture and culture of L.Venammei in the pond located outside the jurisdiction of Coastal Aquaculture Authority (CCA), without any valid permission. He would further submit, on such instructions, that the petitioner has only applied, on 12.5.2017, through mee-seva for provisional registration and that such request is meant for provisional permission to dig new aqua pond but not to continue the aqua culture business, which the petitioner is already doing in the subject pond, and that the petitioner should have applied for regularization in terms of G.O.Ms.No.32 dated 25.10.2017 instead of applying for provisional registration and that the petitioner has not applied till date for regularization of his existing aqua culture pond/business and that the petitioner failed to comply with the guidelines prescribed by the Government under various Government Orders issued from time to time and that

In reply, the leaned counsel for the petitioner would submit that petitioner may be given liberty to make an application for

regularization under the afore-stated GO and his interest may be protected till he makes such an application for regularization and the same is considered and disposed of by the authority concerned in accordance with the procedure established by law.

Having regard to the submissions, the writ petition is disposed of reserving liberty to the petitioner to apply for regularization under the aforesaid GO. However, it is made clear that the petitioner shall make such an application to the authority concerned within one week from the date of receipt of a copy of this order by paying necessary fee and complying with the necessary statutory requirements and the prescribed guidelines. On the petitioner making such an application, the same shall be considered and disposed of by the authority concerned within two weeks from the date of submission of such application for regularization by the petitioner; and, the decision taken thereon shall be communicated to the petitioner within a week thereafter.

Till such exercise is completed, respondents 1 to 4 shall not cause any objection for the petitioner doing aquaculture in the subject pond. However, on the failure of the petitioner to apply for regularization as directed in this order, respondents 1 to 4 are at liberty to proceed further in the matter, in accordance with the procedure established by law, pursuant to the impugned notice, dated 1.11.2017.

Pending miscellaneous petitions, if any, shall stand closed.

No order as to costs.

M.SEETHARAMA MURTI,J

DATE:30—11—2017

AVS

