

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.44163 of 2017

ORDER:

The Proceedings dated 29.11.2017, issued by the 4th respondent is challenged before this Court.

It is the case of the petitioner that he was granted permission for fish culture *vide* proceedings dated 13.02.2017 and on account of commercial viability, he proposed to change the fish culture into prawn culture. In compliance with the procedure prescribed under GO.Ms.No.32, dated 25.10.2017, the petitioner filed an application seeking regularization on 13.12.2017, which is to be considered. There is a time available for consideration of the same till March, 2018. However, the present proceedings dated 29.11.2017 was issued to the petitioner, without issuing notice and without calling for any explanation, ignoring the application made by him in terms of G.O.Ms.No.32, dated 25.10.2017.

It is also the contention of the learned counsel for the petitioner that though the proceedings dated 29.11.2017 is termed as 'notice', in fact it is a 'final order', which is in complete violation of the petitioner's fundamental rights and in violation of the principles of natural justice.

On the other hand, learned Government Pleader for Fisheries (AP) appearing for the respondents submits that it is only a notice and the petitioner is entitled to submit his explanation.

Considered the respective submissions. The language employed in of the impugned proceedings reads as under -

"It is hereby informed that with reference 2 the complaint cited above, as per the report of the Development Officer, Fisheries Department, Ganapavaram, Smt. Goditi Rama Lakshmi, balusu Pruthviraju, kamella Venakteswara Rao,

Kamella Chanti, Eedara Rama Rao and others, Vakalapudi Ramakrishna and others, should stop the cultivation at the pond within 7 days from the date of receipt of this notice, as per the decision of the 89th District Level Committee.”

The underlined portion in the above extract does not leave any doubt that the same is a ‘final order’ and it cannot be construed as a ‘notice’. Further, if it is to be construed as a notice, the respondent authorities ought to have set out why the permission granted earlier is liable to be cancelled by calling for explanation from the petitioner. Nothing has been stated in the impugned proceedings, except stating that *vide* under reference 2, a complaint was received by the District Collector under ‘Dial Your Collector’ from one Sri Kadri Dharma Reddy, Muiyeru Village, Ganapavaram Mandal. Even the copy of the said complaint was not furnished to the petitioner.

In those circumstances, the impugned Notice dated 29.11.2017 is set aside. However, the respondent authorities shall be at liberty to issue a show cause notice calling for the explanation of the petitioner and, thereafter, after providing an opportunity of hearing, pass orders in accordance with law.

It is made clear, as the notice dated 29.11.2017 is set aside, the respondents shall not interfere with the fish culture / prawn culture till the disposal of the application made by the petitioner in terms of G.O.Ms.No.32, dated 25.10.2017.

With the above direction, the Writ Petition is disposed of. No order as to costs.

Consequently, Miscellaneous Petitions, pending if any, shall stand closed.

CHALLA KODANDA RAM, J.

Date: 29.12.2017.
Ssv