

HON' BLE DR. JUSTICE B. SIVA SANKARA RAO

WRIT PETITION No.4132 of 2018

ORDER:

This Writ Petition is filed by the petitioner, under Article 226 of the Constitution of India, seeking the following relief:

“.....to issue a writ or order or direction more particularly one in the nature of a writ of Mandamus declaring the action of 2nd respondent in passing orders dated 11.01.2018, as unjust, illegal, arbitrary, in contravention of the rights of the petitioner enshrined under Art.14,19(g), 21 and 300A of the constitution of India, being against the orders dated 14-12-2017 passed in W.P.40219 of 2017 and set aside the same, in the interest of justice and pass such other order or orders as this Hon'ble court may deem fit and proper”

2. Heard learned counsel for the petitioner, learned Government Pleader for Revenue appearing for respondent Nos.1 to 4, learned Government Pleader for Home appearing for respondent No.5 and learned Government Pleader for Panchayat Raj and Rural Development appearing for respondent No.6 and perused the prayer in the writ petition with supporting affidavit, the impugned order dated 11.01.2018 passed by the District Collector pursuant to the direction of this Court in W.P.No.40219 of 2017 dated 14.12.2017 and the other material on record.

3. Earlier, the writ petitioner herein filed W.P.No.40219 of 2017, which was disposed of on 14.12.2017 and the operative portion of the said order reads as follows:

“...the Writ Petition is disposed of directing respondent No.2-District Collector, YSR Kadapa District to consider the request of respondent No.4-Tahsildar, Lingala Mandal, in the letter, dated 03.11.2017, addressed to him and take a considered decision in the matter in strict accordance with the procedure established by law within two 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.”

4. A perusal of the impugned order dated 11.01.2018 passed by the District Collector nowhere refers to the order of the Tahsildar, that is also one of the documents required by this Court in the earlier writ petition direction to consider. Once such is the case, what the Collector says the Revenue Divisional Officer referred the report of the Tahsildar in the report submitted by the Revenue Divisional Officer referred as reference No.6 dated 26.12.2017, no way referred and it not even reflects what is the purport of the order of the Court earlier in directing the Collector to consider the report of the Tahsildar. If there is any admission by the said tractor owner or driver of the illegal transport of the sand other than for the permitted work in relation to the construction of Murarichinthala SAGY (V) under NRDWP grant, the letter of the Executive Engineer R.W.S dated 02.11.2017 addressed to the Tahsildar, Lingala shows permission to take sand from the approved sand reach for earlier completion of said work sought for. The Tahsildar there from addressed the District Collector dated 03.11.2017 through the Revenue Divisional Officer speaks that Sub-Inspector of Police, Lingala Police Station letter dated 01.11.2017 speaks about seizure of the two tractors with registration Nos.AP 04 TW 4314 with trolley bearing No. AP 04 TW 4315 and another tractor bearing No.AP 02 X 1488 with trolley coming from Diguvapalli Village with heavy sand load and when stopped the two tractors and instructed the tractor drivers to submit the vehicle records and valid permits and royalty bills for

transporting the sand and the drivers not produced the same and during enquiry, they stated that they loaded the sand illegally from the river at Sngavaram village of Yallanur Mandal with an intention of selling the sand load in the surrounding villages for high price and after seizing the property, the Station House Officer conducted panchanama before the village elders and handover the vehicle to the Station House Officer, Lingala, for safe custody until further orders of the District Collector. The Executive Engineer, R.W.S Sub-division, Pulivendula sent a letter stating that they were sanctioned a work for providing drinking water facility to Murarichinthala SAGY (V) under NRDWP group for construction of two GLSR's of capacity 20 KL and two numbers of 40 KL capacity of sump wells to be constructed for that work required of sand 121.05 cum or 50 numbers of tractors and requested for transport of sand through tractors bearing Nos.AP 04 TW 4315, AP 04 PW 4314 by the owner of K.Viswanatha Reddy on 02.11.2017. The said K.Viswanatha Reddy stated that as per EE RWS transporting the sand from river of Sngavaram Village of Yallanuru Mandal purely for Government sanction work in Murarachinthala Village and the Sub-Inspector of Police, Lingala, seized the tractors with sand and requested for release. Hence, necessary orders may be issued.

5. In fact, the report of the Sub-Inspector of Police says from the sand load vehicle seized, what the Executive Engineer addressed to the Tahsildar is only one vehicle of K.Viswanatha Reddy and not two different vehicles and those two tractor drivers admitted about the illegal transport of sand from the reach. Once

this is the crux to be decided also with reference to the report of the Executive Engineer and in turn forwarded by the Tahsildar to the Collector, same did not reflect in the impugned order of the Collector, thereby, the impugned order of the Collector dated 11.01.2018 is set aside with a direction to give fresh disposal within one week from the date of receipt of copy of this order on own merits as per the earlier writ petition order of this Court of referring of report of Tahsildar also for consideration with other material.

6. Accordingly, this Writ Petition is disposed of.

7. Miscellaneous petitions pending, if any, shall stand closed.

No costs.

Date: 06.03.2018
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Dr. B. SIVA SANKARA RAO, J

