

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.8967 OF 2018

DATED :22.03.2018

Between :

Malempati Rajendra Prasad S/o.Venkata Subbaiah,
Aged about 60 yrs, Occu : Agriculture,
R/o.D.No.17, Dasarajupalli Village,
Ongole Mandal, Prakasam District.

.. Petitioner

And

The State of Andhra Pradesh,
Rep., by its Principal Secretary,
Home Department, Velagapudi,
Amaravati, Guntur District & others.

.. Respondents



This court made the following :

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ORDER :

Petitioner claims to be the owner of land in Sy.No.361 of Dasarajupalli Village and is cultivating the said land. The said land has a residential house and tobacco (Klin) barn and tobacco godown. According to the petitioner, 8th respondent who is a neighbour applied for grant of licence to establish fire works retail outlet and godown in Sy.No.363. In the process of granting licence, he has to obtain No Objection Certificate (NOC) from the District Collector. An application was made to the District Collector, Ongole, Prakasam District, to grant NOC. On 19.04.2017 notice was issued calling for the objections and several other notices were issued from time to time. Petitioner filed objections opposing grant of NOC. However, on 14.11.2017, the District Collector issued NOC to establish retail fire works outlet and also godown in Sy.No.363/1. The decision to grant NOC is under challenge in this writ petition.

2. Heard learned counsel for the petitioner, learned Assistant Government pleaders and Sri E.Madan Mohan Rao, learned counsel for the 8th respondent.

3. At this stage, the primary objection of learned counsel for the petitioner is that after the objections were called, no decision is made on the tenability of objections filed and decision to grant NOC by the District Collector on 14.11.2017 is erroneous and contrary to Rule 103 of the Explosive Rules, 2008. According to learned counsel, Rule 103 requires detailed exercise to be undertaken and it is mandatory for him to consider the objections before passing order of granting NOC.

4. Sri E.Madan Mohan Rao, learned counsel appearing for the 8th respondent contended that there is no requirement to pass an order and granting NOC being routine administrative decision, need not be preceded by a decision on the order considering the objections and it is sufficient if the objections are taken note of before decision is made to grant NOC. However, having regard to the scheme and the Rules, more particularly Rule 103, learned counsel fairly submits that a time limit may be fixed to consider the objections and for passing order and to take decision on grant of NOC.

5. Having regard to the fair submissions, the counsel for respective parties agree for disposal of the writ petition by fixing some time limit to undertake the entire exercise.

6. The Writ Petition is accordingly disposed of and the NOC granted on 14.11.2017 is set aside, directing the District Collector to pass appropriate orders as warranted by law, duly considering the objections filed by the petitioner to the notices issued on the application submitted by the 8th respondent to grant NOC to establish retail outlet to sell fire works and godown in Sy.No.363/1 of Dasarajupalli Village, Ongole Mandal, Prakasam District. A decision shall be taken and communicated to the petitioner and the 8th respondent, within a period of three (3) weeks from the date of receipt of copy of this order. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

P.NAVEEN RAO,J

22nd March, 2018
Rds