

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.14184 of 2018

ORDER:

1) Heard.

2) The present writ petition came to be filed seeking issuance of writ of mandamus declaring the letter No.24/Sand/2018, dated 03.04.2018, issued by the third respondent, as arbitrary and illegal.

3) On 23.04.2018, this Court while issuing notice before admission, called for a report from the office of the Roads and Buildings, Ananthapuramu, with regard to depth to which the petitioner has excavated the sand.

4) Though various grounds are raised in the writ affidavit, Sri Challa Gunaranjan, learned counsel for the petitioner mainly submits that the impugned order is violative of principles of natural justice. According to him, the basis for passing the impugned order appears to be the report of the Tahsildar, dated 02.04.2018, which was not furnished to the petitioner. It is stated that referring to the report dated 02.04.2018, a direction was given to the petitioner to stop de-casting of the sand from his land. The report which has been called for by this Court is also placed on record, which indicate that a very big pit came to be excavated by the petitioner showing depth as one meter. There are several similar pits,

which are said to have been dug in the subject land, where the depth is three meters. Learned counsel would contend that several pits which are dug earlier were sample pits made to know the quantity of sand available and that can be excavated and that the sand which was removed from the pits was never transported and the same is lying at the site.

5) The Tahsildar, who filed counter on behalf of the Revenue Department refers to his report dated 02.04.2018, and joint inspection conducted pursuant to the orders of this Court. Strangely, the said report dated 02.04.2018 was not filed, along with the counter. No counter is made available by the learned Government Pleader for Mines, disputing the claim made by the petitioner.

6) The issue that arises for consideration is whether the authorities were justified in passing the order dated 03.04.2018, basing on the report of the Tahsildar, which was neither placed before the Court nor furnished to the petitioner?

7) Definitely, the order impugned is violative of principles of natural justice since the Tahsildar, who filed counter and referred to his report in the counter, speaks about the depth to which mining operation was done and also about illegal transportation of sand by the petitioner. Unless the said report is furnished to the petitioner, it would not be possible to explain the contents therein to the authorities to pass orders directing the petitioner to stop de-casting of the sand.

8) Having regard to the above circumstances and without going into merits of the case, the impugned order dated 03.04.2018, directing the petitioner to stop de-casting the sand, is set aside. However treating the said impugned order as a show cause notice and on furnishing of the report of the Tahsildar dated 02.04.2018, within a week from today by the respondents, the petitioner herein shall submit his explanation within a period of ten days thereafter including to joint inspection report, which was furnished to the petitioner by this Court and by enclosing all the necessary documents and thereafter the authorities shall pass orders in accordance with law.

9) With the above directions, the Writ Petition is disposed of.

10) There shall be no order as to costs. As a sequel thereto, miscellaneous petitions pending if any, shall stand closed.

JUSTICE C. PRAVEEN KUMAR

Dt: 14.12.2018

Note:

Issue CC by tomorrow.

B/o.
vhh