

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.43603 OF 2018

Date: 03.12.2018

Between:

Mediseti Naga Surya Chandra Rao, s/o. Chalapathi Rao,
Aged about 70 years, occu: Nil, r/o. Vadapalem village,
Bandaru Mandal, Krishna district.

.....Petitioner

And

Andhra Pradesh Southern Power Distribution
Corporation Ltd., rep.by its Chairman, Amaravathi,
Guntur district and others.

.....Respondents



The Court made the following:

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ORDER:

Present Writ Petition is filed praying to grant the following relief:

“..... to issue a writ order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondent No.3 in constructing of the Electrical Sub-Station in the shikam land of Vadapalem Grampanchayath Dakshina Cheruvu by removing the Shivalayam Temple without considering the objections of the petitioner dated 23.08.2018 and 08.10.2018 filed as per the orders of this Hon'ble Court is arbitrary and illegal and consequently direct the respondents to stop the construction of Sub-station ...”

2. Petitioner earlier filed Writ Petition No.1869 of 2017 praying to grant the following relief:

“..... to issue a writ order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondent Nos.2 to 4 in constructing the Electrical Sub-Station over the shikam land of Vadapalem Grampanchayath Dakshina Cheruvu by removing the Shivalayam Temple is arbitrary and illegal and consequently direct the respondents to stop the construction of Sub-Station ”

3. The 3rd respondent in this writ petition is the Executive Engineer of APSPDCL Bandar Rural Section, Machilipatnam. In Writ Petition No.1869 of 2017, the Assistant Engineer of AP TRANSCO, Bandar Rural Section, Machilipatnam was impleaded as 4th respondent and the relief sought was against respondents 2 to 4 in constructing the Electrical Sub-Station over the Shikam land of Vadapalem Gram Panchayat. This is the same issue in the present writ petition. Except the fact that instead of

Assistant Engineer representing AP TRANSCO earlier impleaded as respondent, it is now the Executive Engineer of APSPDCL. Though APSPDCL has office at Bandar Rural Section, and is the company undertaking construction of Sub-Station, earlier the Assistant Engineer, AP TRANSCO was made party, who is no way concerned. Therefore, APSPDCL filed vacate petition in the earlier Writ Petition. It is clearly stated that the Assistant Engineer representing AP TRANSCO was shown wrongly, whereas the concerned person is the Additional Assistant Engineer, representing the APSPDCL.

4. On detailed consideration of respective contentions, this Court disposed of the W.P.No.1869 of 2017, by order dated 13.07.2017. Having regard to the respective claims on the status of the land, the Court directed the District Collector, Krishna district to examine all the relevant aspects including the aspects noted in the preceding paragraphs of the judgment before taking a considered decision in the matter and after considering the objections of the petitioner and others filed before him. Petitioner was also granted liberty to file a fresh copy of the objections to the District Collector under proper acknowledgment for appropriate consideration by the District Collector.

5. Petitioner claimed to have filed additional objections on 23.08.2018 and 08.10.2018 and personal hearing was stated to have been conducted. At this stage, this Writ Petition is filed with the prayer, extracted above, alleging that APSPDCL is undertaking construction of Sub-Station without considering the objections filed by the petitioner.

6. The prayer sought in both writ petitions is substantially same i.e., construction of Sub-Station over Shikam land and that same is not permissible; that land is actually a temple land; and that it is classified as Sikham. These are the issues required consideration and decision by the District Collector.

7. This Court already issued directions to the District Collector and learned counsel for petitioner fairly submits that aggrieved by the inaction of the District Collector, Contempt Case is also filed and same is pending consideration of the Court.

8. Petitioner is not seeking relief to mandate respondents to comply earlier orders, but complains of APSPDCL undertaking construction of Sub-Station on Shikam land. The issue of construction of Sub-Station was already considered and directions were issued by the Court, which directions also covered the consideration of the objections of petitioner by the District Collector. There cannot be multiplication of litigation and issuing successive directions on the same subject. If the directions of this Court made in W.P.No.1869 of 2017 are not complied with, the Officers disobeying the directions can be hauled up for contempt and be punished. It is also appropriate to note that initially stay was granted by the Court on construction of Sub-Station over the shikam land. While disposing of writ petition, Court did not maintain the stay on construction of Sub-station and, therefore, question of staying construction of Sub-station in the subsequent writ petition on the same issue cannot be granted.

9. For the aforesaid reasons, Writ Petition is dismissed, leaving it open to petitioner to pursue remedies as available to him. It is also open to petitioner to work out his remedies if an adverse decision is made by the District Collector. Pending miscellaneous petitions shall stand dismissed.

JUSTICE P.NAVEEN RAO

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