

***THE HON'BLE SRI JUSTICE P.NAVEEN RAO**

+ WRIT PETITION Nos.23135 AND 23154 OF 2019

% 23.10.2019

Renew Wind Energy (TN2) Private
Limited # 138, Ansal Chambers II, Bikaji
Kama Palace, Delhi, rep., by its authorized
Signatory Madhu Mohan Rao.M .. Petitioner

And

\$ The State of Telangana, rep., by its
Principal Secretary, Revenue Department,
Secretariat, Hyderabad and others .. Respondents

! Counsel for the petitioner : Sri S. Niranjan Reddy

Counsel for the Respondents : Learned Government Pleader
for Revenue

<Gist :

>Head Note:

? Cases referred:

2006 SCC Online AP 1034 : (2010) 6 ALD 536 : (2010) 4 ALT 655

HIGH COURT FOR THE STATE OF TELANGANA

WRIT PETITION Nos.23135 AND 23154 OF 2019

Between:

Renew Wind Energy (TN2) Private
Limited # 138, Ansal Chambers II, Bikaji
Kama Palace, Delhi, rep., by its authorized
Signatory Madhu Mohan Rao.M .. Petitioner

And

The State of Telangana, rep., by its
Principal Secretary, Revenue Department,
Secretariat, Hyderabad and others .. Respondents

JUDGMENT PRONOUNCED ON : 23.10.2019

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

1. Whether Reporters of Local Newspapers may :
Be allowed to see the Judgments ? : YES
2. Whether the copies of judgment may be marked : YES
To Law Reporters/Journals :
3. Whether Their Ladyship/Lordship wish to :
See fair Copy of the Judgment ? : No

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION Nos.23135 AND 23154 OF 2019

Dated:23.10.2019

W.P.No.23135 of 2019

Between:

Renew Wind Energy (TN2) Private
Limited # 138, Ansal Chambers II, Bikaji
Kama Palace, Delhi, rep., by its authorized
Signatory Madhu Mohan Rao.M .. Petitioner

And

The State of Telangana, rep., by its
Principal Secretary, Revenue Department,
Secretariat, Hyderabad and others .. Respondents



This Court made the following:

THE HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION Nos.23135 AND 23154 OF 2019

COMMON ORDER:

Heard learned senior counsel for the petitioner and learned Government Pleader for Revenue appearing for the respondents.

2. Briefly noted, the facts are as under:

Noticing that the original assignees sold their land in violation of the provisions of the Telangana Assigned Lands (Prohibition of Transfers) Act, 1977 (for short, 'the Act, 1977'), notice in Form-I was issued to the assignees and notice in Form-II was issued to the petitioner, who claims to be the subsequent purchaser. In response to the notice in Form-II dated 07.08.2019, a detailed explanation was submitted by the petitioner pointing out the deficiencies and the manner in which the notice was issued not fulfilling the parameters as required by the Act, 1977, and as held by this Court. Though these objections were on record, they were not dealt with in the order impugned and it was passed stating that the alleged purchase made by the petitioner was in violation of the provisions of the Act, 1977, and thereby, ordered for resumption of land, by proceedings dated 07.10.2019.

3. Placing reliance on the decision of the Supreme Court in **Dasari Narayana Rao v. Deputy Collector and Mandal Revenue Officer, Serilingampally, Ranga Reddy District**¹, learned senior counsel appearing for the petitioners submits that the show cause notice should contain all the essential details as to whether the land is classified as 'Government land', when it was assigned, with

¹ 2006 SCC Online AP 1034 : (2010) 6 ALD 536 : (2010) 4 ALT 655

what conditions it was assigned, with what extents and to whom it was assigned. In the absence of these details, there was no possibility for the petitioner to submit proper explanation. Further, when objections are raised, it is the bounden duty of the competent authority to consider those objections.

4. In reply to the same, learned Government Pleader for Revenue submits that along with the Rules formulated under the Act, 1977, Forms are prescribed in which notices have to be generated. Form-I has to be issued to the assignee, wherein all the details would contain, and Form-II is issued to purchaser, wherein no details are required to be furnished.

5. In **Dasari Narayana Rao** (supra), in paragraph Nos.34 and 35 this Court held as under:

“34. The proceedings under the 1977 Act are in the nature of civil proceedings. The conclusion that the land in question is assigned land may also be arrived at by a compelling inference preponderating from the circumstantial evidence on record. If the assignment in question is under certain Rules for the time being in force (within the meaning of this clause as employed in Section 2(1) of the 1977 Act); if such Rules (under which the assignment is made) enjoin a prohibition on alienation; and such statutory prohibition was in operation on the actual date of assignment, it might perhaps be an indicator justifying an inference that the land in question is an “assigned land”. For such a presumption to be legitimately drawn, the respondents must establish the date of assignment and the contemporaneous state of the Rules under which assignment was made, to legitimize the conclusion that the Rules did prohibit alienation as on the date of assignment. All these are essentially questions of facts and must first be put to the person aggrieved so as to afford him a reasonable opportunity to explain or defend his possession and ownership of the land in question, a valuable property right.

A reasonable opportunity is that which informs a respondent to a show-cause notice of the facts that are asserted against him or his interest.

35. The show-cause notice dated 16.2.2002 and the final order dated 16.5.2002 come nowhere near this forensic discipline expected of a *quasi judicial* Tribunal. A careless and negligent *quasi judicial* exercise cannot be overlooked on the ground that the authority exercising it was a Mandal Revenue Officer-cum-Deputy Collector. The contention urged on behalf of the official respondents by the learned Special Government Pleader Mr. A. Satya Prasad, appearing on behalf of the learned Advocate General, that no higher forensic competence could be expected of a M.R.O. than has been displayed in the order dated 16.5.2002, does not commend acceptance by this Court.”

6. Having regard to the law laid down by this Court in the above decision followed in W.P.No.13973 of 2017, dated 28.04.2017, what is required to be understood is that when show cause notice in Form-I and Form-II is issued, it should also contain all the details as to whether the land is classified as ‘Government land’, and if so, when it was assigned, with what conditions it was assigned, what extent was assigned and to whom it was assigned and then call upon the assignee/occupier/purchaser to submit his explanation. In view of the settled principle of law, as these basic details are not furnished, the order impugned is not sustainable. As the order is *ex facie* not sustainable, the Court is not inclined to keep the Writ Petitions pending.

7. The Writ Petitions are accordingly allowed, at the stage of admission. The resumption proceedings dated 07.10.2019 are set aside and the matters are remanded to the Tahsildar, Addakal Mandal, Mahabubnagar District. It is open to the Tahsildar to

cause a fresh notice to the petitioner furnishing all the details required and basing on the details incorporated in the notice, call upon the petitioner to submit its explanation and consider the objections, if any, raised by the petitioner and pass appropriate orders thereon in accordance with law. Pending Miscellaneous Petitions, if any, shall stand closed.

P. NAVEEN RAO, J

Date:23.10.2019

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