

HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

Contempt Case Nos.815 of 2019

and

Contempt Case No.822 of 2019

COMMON ORDER :

C.C.No.815 of 2019 is filed by petitioner no.12 in WP.No.21275 of 2018 who is a resident of Vemulaghat Village, Thoguta Mandal, Siddipet District to punish the respondents for willful disobedience of the common order dt.27.06.2018 passed in WP.No.21275 of 2018 as modified by order dt.05.07.2018 in I.A.No.2 of 2018 in the said Writ Petition.

2. C.C.No.822 of 2019 is filed by petitioner nos.1, 12, 31, 106, 107, 123, 129, 198, 226, 244 and 248 in Writ Petition No.21293 of 2018, who are also residents of Vemulaghat Village to punish the respondents for willful disobedience of the common order dt.27.06.2018 passed in WP.No.21293 of 2018 as modified by order dt.05.07.2018 in I.A.No.2 of 2018 in the said Writ Petition.

3. In the said Writ Petitions, the petitioners, who were tenant-farmers and agricultural labourers, had questioned the action of the respondents in issuing proceedings claiming to have disposed of petitioners' objections under Section 15 of the Right to Fair Compensation, Resettlement and Rehabilitation Act, 2013 (Act 30 of 2013), issuing declaration under Section 19(1) of the said Act and also issuing Award enquiry notices subsequently for acquiring the lands of

the petitioners for constructions of Mallannasagar, Reservoir and attempting to take possession of their lands.

4. Both the said Writ Petitions were disposed of by common order on 27.06.2018 setting aside declaration dt.16.05.2018 issued under Section 19 of the said Act by the State of Telangana as regards the petitioners and also the subsequent proceedings as regards the petitioners by following order dt.20.06.2018 in W.P.No.19572 of 2017.

5. The said order dt.27.06.2018 reads as under :

“... the Writ Petitions are allowed to the extent that the declaration dt.16.05.2018 issued under Section 19 of the Act 30 of 2013 by the 1st respondent is set aside as regards the petitioners and subsequent proceeding as regards petitioners are also set aside. ‘The 6th respondent is directed to furnish material sought by the petitioners as regards the three (03) sets of D.P.R. (all volumes) to the counsel for petitioners within ten (10) days from to-day. The 6th respondent shall make available fifteen (15) sets of the ‘Telugu’ translation of Volume-I of the D.P.R. and other Volumes of the D.P.R. (in English), at the Office of the Gram Panchayat of Vemulaghat Village, Thoguta Mandal, Siddipet District (Erstwhile Medak), Telangana State, for a period of three (03) weeks from to-day, for perusal of the petitioners; the petitioners herein are directed to submit fresh objections, if any, on the basis of such material on or before 06.08.2018; the 6th respondent shall conduct personal hearing to the petitioners or their counsel on 13.08.2018 at 10.30 a.m. at his Office; and then communicate his decision on the objections to the petitioners within four (04) weeks thereafter’. No order as to costs.”

6. Thereafter, the State had filed I.A.No.2 of 2018 in both the Writ Petitions seeking modification of the said common order. The said common order dt.27.06.2018 was modified on 05.07.2018 as under :

“5. ... The 6th respondent is directed to furnish material sought by the petitioners as regards the three (03) sets of D.P.R. (all volumes) to the counsel for petitioners within ten (10) days from to-day. The 6th respondent shall make available fifteen (15) sets of the ‘Telugu’ translation of Volume-I of the D.P.R. and other Volumes of the D.P.R. (in English) at the Office of the Gram Panchayat of Vemulaghat village, Thoguta Mandal, Siddipet District (Erstwhile Medak), Telangana State, for a period of three (03) weeks from to-day, for perusal of the petitioners; the petitioners herein are directed to submit fresh objections, if any, on the basis of such material on or before 06.08.2018; the 6th respondent shall conduct personal hearing to the petitioners or their counsel on 13.08.2018 at 10.30 a.m. at his Office; and then communicate his decision on the objections to the petitioners within four (04) weeks thereafter.

6. Accordingly, the common order passed by this Court on 27.06.2018 in W.P.Nos.21275 and 21293 of 2018, stands modified as above. ...”

Contentions in C.C.No.815 and 822 of 2019 :

7. In C.C.No.815 of 2019 it is contended by the sole petitioner therein that the respondents in the Contempt Case did not provide adequate copies of Detailed Project Report in Telugu Language to them; copy of Volume IV of the Detailed Project Report was not provided even in English Language and certain maps were not provided before the date of personal hearing on 13.08.2018 which was conducted by the then the Special Dy. Collector (L.A.), Kaleswaram Project, Unit-III cum Revenue Divisional Officer, Siddipet District; with great difficulty and with the help of knowledgeable persons, the

petitioner and along with other petitioners drafted and submitted their objections under Section 15(1) of the Act to the said respondent on 06.08.2018 as per material provided; petitioner and others attended before the District Collector, Siddipet District on 13.08.2018 for personal hearing of the objections (the 6th respondent in the C.C. was District Collector, Siddipet against whom also leave was granted to file the C.C.); that the hearing was not conclusive on that day as full material had not been furnished to the petitioner and others who were parties in W.P.No.21275 of 2018; the authorities failed to give clarifications over the issues raised by them; the 6th respondent told the petitioner and other parties in the said Writ Petition that remaining material will be provided to them and a fresh personal hearing would be conducted soon; that petitioner and other parties in the said W.P. represented on 13.08.2018 and also on 14.08.2018 to the District Collector of Siddipet District (the 2nd respondent in the C.C. who was District Collector till 29.08.2018 and again from 10.06.2019) and also before the 6th respondent; thereafter, the 4th respondent assumed charge as Special Deputy Collector (L.A.) Kaleswaram Project, Unit-III cum Revenue Divisional Officer, Siddipet District and the 6th respondent took charge after 29.08.2018 and had to comply with the orders of the Court; subsequently too representations were made by the petitioner and other parties in the Writ Petition on 23.08.2018, 10.09.2018 and 15.10.2018 to comply with the orders of the Court; no further action was taken on the objections filed by the petitioner and others and no communication was received from any of the

respondents; no personal hearing was again conducted; and no orders were passed or communicated to the petitioner / other objectors on their objections; and the 4th respondent, ignoring the orders passed by the Court entered into agreements with several land owners for voluntary acquisitions of their lands ignoring the petitioner and others in January, 2019; and also paid compensation amounts to land owners, and took possession of the lands without the land acquisition proceedings attaining finality.

8. It is also contended that the notification under Section 11(1) of the Act lapsed since there was no declaration under Section 19 of the Act within one year from the date of the Section 11(1) Notification and the respondents developed grudge against the petitioner and others who insisted on following the procedure for acquisition and asked for allotment of land instead of monetary compensation.

9. It is contended that declaration under Section 19(1) of the Act was published in the District Gazette No.215/19 dt.21.05.2019 and award enquiry notices dt.24.05.2019 were issued with regard to the lands of the petitioner and other objectors.

10. The petitioner contends that without considering and disposing of objections of the petitioner and others under Section 15(2) of the Act and without communicating the same to them, the respondents could not have issued the said declaration under Section 19(1) of the Act on 21.05.2019. It is contended that the respondents had willfully

and deliberately violated the orders of this Court in W.P.No.21275 of 2018.

11. It is also contended that the 1st respondent is responsible for ensuring preparation of the Resettlement and Rehabilitation Scheme as per Act 30 of 2013 before issuing declaration under Section 19(1) of the Act and he ought to have published summary of the same along with the declaration, but failed to do so. It is also alleged that he is responsible for uploading all the proceedings, orders and notices at every stage of each acquisition taken up in the State to a dedicated web-site, but he failed to do so.

12. The petitioner therefore sought punishment of the respondents under Sections 10 to 12 of the Contempt of Courts Act, 1971.

13. In C.C.No.822 of 2019 also identical contentions were raised by the petitioners therein alleging willful and deliberate violation of the order in Writ Petition No.21293 of 2018.

14. Copies of the objections filed on 06.08.2018, 13.08.2018 as well as copies of representations made on 14.08.2018, 23.08.2018, 10.09.2018, 15.10.2018, Form VII Declaration under Section 19(1) of the Act, Award Enquiry notices dt.24.05.2019, 31.05.2019 and 10.06.2019 were filed in the material papers by the petitioners in both the C.C.s.

Contentions of respondents :

15. The learned Additional Advocate-General took notice for all respondents and filed counter-affidavits on behalf of respondent nos.2 and 6, i.e., the Officers who worked as District Collectors in Siddipet District prior to 31.08.2018 and after 31.08.2018 and from 10.06.2019. No counter affidavit was filed by the 4th respondent.

16. In the counter of the 2nd respondent, it is contended that the Revenue Divisional Officer concerned had furnished the material as directed by this Court and conducted personal hearing on 13.08.2018 and on 14.08.2018 to the parties in W.P.s 19572 of 2018, 21275 of 2018 and 21293 of 2018; thereafter, the Revenue Divisional Officer did not send his recommendations to the District Collector for disposal of the objections in accordance with law till 01.05.2019; on 01.05.2019, when recommendations were received by the then Collector (6th respondent), he had considered the same and disposed them of on 08.05.2019 with a direction to the Revenue Divisional Officer to communicate the same to the petitioners; that on 14.05.2019, the Revenue Divisional Officer informed the Collector that decision on the objections were communicated to the petitioners; that he was the Collector of Siddipet District up to 29.08.2018 and again from 12.06.2019 and in between the said dates, the 6th respondent was the District Collector. He also contended that the Revenue Divisional Officer was not accomplishing works assigned in the time-line prescribed and several contempt cases were being filed

against the officers for not implementing the orders of the Court and a request was made to the Government to transfer the Revenue Divisional Officer to a different place on 24.09.2019. It is stated that the Revenue Divisional Officer then went on leave and continued to be on leave as on 22.11.2019, the date when the counter-affidavit was filed by him.

17. In the counter filed by the 6th respondent, it is stated that (10) copies containing all the details relating to Mallannasagar Reservoir in Telugu were made available at Grama Panchayat Office, Vemulaghat except (04) volumes of D.P.R and Project Map for perusal of the affected pattedars vide Lr.No.B/488/2015 dt.02.08.2018 which is after issuance of individual notices; that the said delay was caused for its translation into Telugu version; that during the Award enquiry 174 farmers including petitioners filed objections; except 14 farmers including petitioners, others received the amount paid by the respondents; petitioners want land to land compensation which is not possible; award was passed under the Act; the Special Deputy Collector (L.A.) was also returning officer for the Telangana State Legislative Assembly Constituency Elections, Assistant Returning Officer for H.O.P. Elections and Appellate Authority for the Grama Panchayat and M.P.T.C. elections; and therefore, he was probably handicapped in taking timely action on the applications submitted by the petitioners.

The consideration by the Court

18. A reading of the counter-affidavit of the 2nd respondent shows that the Special Deputy Collector (L.A.) (4th respondent in the C.C.) had made available the material directed by this Court in its order dt.05.07.2018 in both the Writ Petitions, which contention the petitioners vehemently deny. According to them, adequate copies of Detailed Project Report in Telugu were not given, copy of Volume IV of the Detailed Project Report, even in English and also certain maps were not supplied before the date of the hearing on 13.08.2018.

19. In the counter of the 6th respondent, it is stated that 10 copies containing all the details relating to Mallannasagar Reservoir in Telugu were made available at the Grama Panchayat Office, Vemulaghat except four volumes of Detailed Project Report and Project Map. Why the four volumes of the Detailed Project Report and the Project Map were not furnished to the petitioners is not explained.

20. Also, when this Court directed in its order dt.05.07.2018 the Special Deputy Collector (L.A.) to provide three sets of Detailed Project Report to *the counsel for petitioners within ten days* from the date of the said order, it is not the contention of respondent nos.2 and 6 that they gave any copies of the Detailed Project Report to the counsel for petitioners. Why he did not comply with the said direction is also not explained by the said official or by respondent nos.2 and 6.

21. Thus the plea of the petitioners that they were not supplied with the adequate copies of the material documents so that they can file objections, is established.

22. When the petitioners had given letter dt.14.08.2018 to the 4th respondent that the hearing held on 13.08.2018 was incomplete, there is no reply by the 4th respondent to the said letter. There is also no denial by him of the said allegation of the petitioners. Therefore, the said plea has to be accepted.

23. Though this Court specifically directed in its order dt.05.07.2018 to communicate the decision of the 4th respondent on the objections of the petitioners, nothing is produced before this Court to prove that they were communicated to the petitioners.

24. Though, according to the letter dt.25.08.2018 of the 2nd respondent to the 4th respondent, he claimed to have directed the 4th respondent to communicate the report on the objections to the petitioners, in the absence of material to prove such communication, it has to be taken that there was no communication of the said report to the petitioners.

25. I therefore hold that the 4th respondent has willfully disobeyed the order dt.05.07.2018 passed by this Court in WP.No.21275 of 2018 and WP.No.21293 of 2018.

26. During the course of hearing, it also came to light that one Muthyam Reddy was the Special Dy. Collector (L.A.), Kaleswaram

Project, Unit III cum Revenue Divisional Officer, Siddipet Division up to 29.08.2018 and thereafter Jayachandra Reddy, 4th respondent in the Contempt Cases, was posted as the Special Deputy Collector (L.A.), Kaleswaram Project, Unit III cum Revenue Divisional Officer, Siddipet Division.

27. Thus, it is clear that the objections of the petitioners were heard on 13.08.2018 by Sri Muthyam Reddy, but the recommendations on the objections were sent, 8 months later on 01.05.2019, by his successor Sri Jayachandra Reddy (4th respondent).

28. This Court also in its order dt.05.07.2018 asked the 6th respondent in the Writ Petition, i.e, the Special Dy. Collector (L.A.), Kaleswaram Project, Unit III cum Revenue Divisional Officer, Siddipet Division (who is the 4th respondent in the CC) to hear the objectors or their counsel *and* communicate his decision to the petitioners. Therefore only the person who heard the objections under Section 15(2) of the Act must take a decision and make recommendation to the State, but not by somebody else, even if he succeeds the former.

29. This principle was laid down in **Gullapalli Nageswara Rao v. A.P. State Road Transport Corpn¹**.

“The second objection is that while the Act and the Rules framed thereunder impose a duty on the State Government to give a personal hearing, the procedure prescribed by the Rules impose a duty on the Secretary to hear and the Chief Minister to decide.

¹ AIR 1959 SC 308

This divided responsibility is destructive of the concept of judicial hearing. Such a procedure defeats the object of personal hearing. Personal hearing enables the authority concerned to watch the demeanour of the witnesses and clear up his doubts during the course of the arguments, and the party appearing to persuade the authority by reasoned argument to accept his point of view. If one person hears and another decides, then personal hearing becomes an empty formality. We therefore hold that the said procedure followed in this case also offends another basic principle of judicial procedure.'

30. This principle was also reiterated recently in **Rasid Javed v. State of U.P²**

31. So the hearing of the petitioners' objections by Sri Muthyam Reddy on 13.8.2018 and 14.8.2018, but the making recommendations on the objections on 01.05.2019, by his successor Sri Jayachandra Reddy is impermissible and this also vitiates the action taken by the respondents under the Act.

32. No counter-affidavit is filed by the 4th respondent in the Writ Petition as to why he waited till 01.05.2019 to send his recommendation to the 6th respondent when he was directed to take a decision on the objections of the petitioners filed on 13.08.2018 within four weeks after the hearing and communicate it to the petitioners.

33. Though the 6th respondent alleged that the Special Deputy Collector (L.A.) was also returning officer for the Telangana State Legislative Assembly Constituency Elections, Assistant Returning

² (2010) 7 SCC 781

Officer for H.O.P. Elections and Appellate Authority for the Grama Panchayat and M.P.T.C. elections, and so he was probably handicapped in dealing with the objections of the petitioners, not a scrap of paper is filed in support of this plea. It is not the case of the Additional Advocate General that any extension of time was sought by the 4th respondent on the above grounds.

34. As officers who are parties to the Writ Petitions and also holding positions of District Collector of Siddipet District in which the 4th respondent was their subordinate, it was the duty of the respondent nos.2 and 6 to ensure compliance with the orders of this Court. They have both miserably failed in doing so. This throws serious doubts over their administrative capabilities. I hold that they have abetted the 4th respondent's violation of the orders passed by this Court by their inaction.

35. For the aforesaid reasons, I hold that:

(a) the petitioners were not supplied the material directed by this Court to be supplied to them,

(b) that they were disabled from filing proper objections under Section 15(1) of the Act by the respondents,

(c) that their objections could not have been heard by Sri Muthyam Reddy, Special Dy. Collector (L.A.), Kaleswaram Project, Unit III cum Revenue Divisional Officer, Siddipet Division on 13.08.2018 inconclusively,

(d) and on the basis of the said hearing, it was not open to the 4th respondent Jayachandra Reddy, who succeeded Muthyam Reddy from 30.08.2018 to send his report on 01.05.2019 to the 6th respondent, and

(e) on that basis declaration under Section 19(1) of the Act could not have been validly issued by the State of Telangana on 21.05.2019.

(f) and there was a willful disobedience by the respondents 2,4 and 6 of the common order dt.27.06.2018 passed in WP.No.21275 of 2018 and W.P.No.21293 of 2018 as modified by order dt.05.07.2018 in I.A.No.2 of 2018 in both the said W.P.s.

36. Accordingly, the 4th respondent is sentenced to two (02) months' imprisonment and fine of Rs.2,000/- which shall be paid within four (04) weeks. The petitioners shall deposit subsistence allowance at Rs.200 per day within four (04) weeks. The sentence of imprisonment imposed on the 4th respondent is suspended for four (04) weeks.

37. The respondents 2 and 6 are sentenced to fine of Rs.2000/- which shall be paid by them in 4 weeks and in default they shall suffer imprisonment for 1 month.

38. An adverse entry shall be recorded in the service records of respondent nos.2, 4 and 6 as regards their willful disobedience of the orders passed by this Court on 05.07.2018 in WP.No.21275 of 2018 and W.P.No.21293 of 2018.

39. Since the actions of the respondents amount to willful disobedience of the orders passed by this Court and the respondents cannot be allowed to enjoy the fruits of the contempt committed by them, and to rectify the injustice done to the petitioners, and ensure that they get justice, the declaration under Section 19(1) of the Act published in the District Gazette No.215 / 2019 dt.21.05.2019 as regards the petitioners and the lands in the Vemulaghat Village with which they were concerned, is set aside; the Award allegedly passed in respect of the petitioners by the 4th respondent / respondent no.2 under Section 23 of the Act is also set aside; and since from the date of Section 11(1) Notification dt.30.07.2017, more than two years have elapsed, and it is not permissible to issue a fresh declaration under Section 19(1) of the Act at this point of time in view of 2nd proviso to sub-Section (7) of Section 19 of the Act, the notification under Section 11 issued on 30.07.2017 in Form-C vide proceedings No.G1/681/2017 dt.29.07.2017 in respect of the land with which the petitioners are concerned, is also set aside; and the respondent no.2 and the present incumbent of the post of Special Dy. Collector (L.A.), Kaleswaram Project, Unit III cum Revenue Divisional Officer, Siddipet Division shall initiate fresh proceedings under the Act as regards the petitioners and pay them all the benefits they are entitled to by strictly following the provisions of the Act within six months from the date of receipt of copy of the order. The respondent nos.2, 4 and 6 shall also pay costs of Rs.2,000/- to each of the petitioners.

40. Both the Contempt Cases are allowed as above.

41. As a sequel miscellaneous petitions pending if any in these Contempt Cases shall stand closed.

M.S.RAMACHANDRA RAO, J

Date: 24.01.2020
Ndr

