APHC010200142024

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3331]**
(Special Original Jurisdiction)

WEDNESDAY, THE 28th DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE SUBBA REDDY SATTI

WRIT PETITION NO: 10119/2024

Between:

1. MUDUNURI JAGANNADHA RAJU, S/O LATE ANANDA RAJU, AGED 82 YEARS, OCC- EX SERVICEMAN, R/O D. NO. 32-10-78, VENKATESWARA COLONY, SHEELA NAGAR, BHEL POST, VISAKHAPATNAM-530012.
2. MUDUNURI ANANDA RAJU, S/O JAGANNADHA RAJU, AGED 51 YEARS, OCC- BUSINESS, R/O D. NO. 32-10-78, VENKATESWARA COLONY, SHEELA NAGAR, BHEL POST, VISAKHAPATNAM-530012.

...PETITIONER(S)

AND

1. STATE OF ANDHRA PRADESH, REP.BY ITS PRINCIPAL SECRETARY REVENUE DEPARTMENT, SECRETARIAT, VELAGAPUDI, AMARAVATI, GUNTUR DISTRICT
2. THE DISTRICT COLLECTOR, VIZIANAGARAM DISTRICT.
3. THE REVENUE DIVISIONAL OFFICER, VIZIANAGARAM, VIZIANAGARAM DISTRICT.
4. THE TAHSILDAR, KOTHAVALASA MANDAL, VIZIANAGARAM DISTRICT.
5. THE SUB REGISTRAR, KOTHAVALASA, VIZIANAGARAM DISTRICT.

...RESPONDENT(S):

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue any writ, order or direction more particularly one in the

nature of Writ of Mandamus declaring the orders passed by the 2nd respondent in D.Dis No. 254/2021/E2 dt 16-02-2024 is illegal, arbitrary and violation of principles of natural justice and to consequently set aside the same and further direct the respondent to delete the petitioners land admeasuring extent of Ac. 5.36 cents in Sy. No. 46-16, Denderu Village, Kothavalasa Mandal, Vizianagaram District from prohibited list and to pass

IA NO: 1 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the 5^^ respondent to entertain registrations of transactions without referring prohibited list under Section 22 A of the Registration Act in respect of land admeasuring extent of Ac. 5.36 cents in Sy. No. 46-16, Denderu Village, Kothavalasa Mandal, Vizianagaram District pending disposal of the writ petition.

Counsel for the Petitioner(S):

1. V V SATISH

Counsel for the Respondent(S):

1. GP FOR REGISTRATION AND STAMPS (AP)

The Court made the following:

ORDER

Heard Sri V.V.Satish, learned counsel for the petitioners, and Sri M.Chandra Sekhar, learned Assistant Government Pleader for Revenue, for the respondents.

2. Assailing the proceedings of the 2nd respondent vide D.Dis.No.254/2021/E2, dated 16.02.2024 (Ex.P1), the above writ petition was filed.

3. a) The 1st petitioner is an Ex-Serviceman, retired from service in the year 1989 as Sub-Major. While in service, an extent of Ac.5.36 cents in S.No.46-16 of Denderu village, Kothavalasa Mandal, Vizianagaram District was assigned vide Patta in DR No.438/92, dated 03.02.1983, under the ex-

servicemen quota, and pursuant thereto, his name was updated in the Record of Rights. The 1st petitioner gifted the aforementioned property to the 2nd petitioner by registered gift deed, Document No. 299 of 2007. Thereafter, the 2nd petitioner's name was updated in the Record of Rights.

b) Be that as it may, the property referred to supra was kept in the list of prohibited properties under Section 22-A of the Registration Act, 1908. The petitioner applied to the 4th respondent to delete the property from the list of prohibited properties. The 4th respondent issued a letter dated 10.07.2018 to the District Sainik Welfare Officer, Visakhapatnam, seeking authentication of the 1st petitioner's claim as an ex-serviceman. In response, the District Sainik Welfare Officer, Visakhapatnam submitted a report dated 14.09.2018 (Ex.P9).

c) The Mandal Revenue Inspector, Kothavalasa submitted a report to the 4th respondent-Tahsildar. In turn, the 4th respondent submitted a report vide Rc.No.159/2018/SA, dated 27.07.2020 (Ex.P7) to the 2nd respondent, recommending deletion of the subject land from the list of prohibited properties. The 4th respondent also submitted a report dated 21.12.2020 (Ex.P3) to the 3rd respondent, the Revenue Divisional Officer. The 2nd respondent, by proceedings dated 03.04.2021 (Ex.P5), sought certain clarifications. Again, the 2nd respondent called for a report from the 4th respondent. It seems the 4th respondent submitted a report to the 2nd respondent. Thereafter, by the impugned proceedings, the 2nd respondent rejected the petitioners' claim.

4. Sri V.V.Satish, learned counsel for the petitioners, would submit that the 2nd respondent rejected the claim of the petitioners on the ground that the 1st petitioner is not eligible for assignment under the Ex-Servicemen Category in terms of G.O.Ms.No.743, dated 30.04.1963, read with G.O.Ms.No.681, dated 15.04.1964. He would also submit that in an identical situation, the Division Bench of this Court in W.A.No.271 of 2023, dated 03.10.2023, confirmed the order passed by the learned Single Judge of this Court in W.P.No.7365 of

2021 dated 03.11.2022. He would further submit that the Division Bench of this Court relied on the judgment passed by the learned Single Judge of the composite High Court of Andhra Pradesh in R.S. Rebecamma **Vs. Zilla Sainik Welfare Officer and others**[1].

5. Sri Chandra Sekhar, learned Assistant Government Pleader for Revenue for the respondents, while supporting the order passed by the 2nd respondent, would contend that the 1st petitioner is not entitled to assignment in terms of Board Standing Order 15(II)(2)(ii). The 2nd respondent considered this aspect and rejected the 1st petitioner's claim. Eventually, prayed to dismiss the writ petition.

6. The point for consideration is:

Whether the proceedings of the 2nd respondent (Ex.P1), impugned in the writ petition, suffer from any illegality, warranting interference?

7. The facts narrated supra require no reiteration. There is no dispute that the 1st petitioner was assigned an extent of Ac.5.36 cents in S.No.46-16 of Denderu village, Kothavalasa Mandal, Vizianagaram District, under ex-Servicemen category. Initially, the 1st petitioner's name was updated in the record of rights. Thereafter, the 1st petitioner gifted the property to the 2nd petitioner and thus, the name of the 2nd petitioner was updated in the record of rights. The property referred to supra was kept in the list of prohibited properties under Section 22-A of the Registration Act, 1908.

8. Whether the 1st petitioner is entitled to assignment, since he was in the cadre of Sub-Major, which comes under Junior Commissioned Officer, is no longer *res integra*. Learned single Judge of the composite High Court of Andhra Pradesh in **R.S.Rebecamma**'s case (supra), after considering Section 3 of the Army Act, observed thus:

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[1] 2004 (6) ALD 329

> "15. The petitioner contends that G.O.Ms. No. 743, dated 30.4.1963 has no application to her case. The said submission is misconceived. A careful reading of G.O.Ms. No. 743, dated 30.4.1963 read with G.O.Ms. No. 681, dated 18.4.1964 would show that these orders contain general policy of the State in the matter of assignment of agricultural land to Jawans served in various capacities. When the G.O. uses the words like "general policy" and "Jawans served in various capacities", there is no necessity to read the Government Order in a restrictive manner. The word "Jawan" is used in a generic sense. In includes Army Personnel who are retired or discharged from the Armed Forces. The word "Jawan" does not mean that army person in the lowest rung or it does not mean that it is equivalent to 'orderly' or 'Soldier', which is the lowest rank in the Army. G.O.Ms. No. 681, dated 18.4.1964 further clarified that all the officers of all ranks of three armed services excluding officers are treated as Jawans. As already seen, even by the very definition of "officer"; Junior Commissioned Officers, Warrant Officers, Petty Officers and/or Non-Commissioned Officers are excluded from the definition of officer. Therefore, this Court holds that the petitioner who worked as Non-Commissioned Officer, i.e., Lieutenant in MNS is also entitled for assignment of land as per G.O.Ms. No. 743, dated 30.4.1963 read with G.O.Ms. No. 681, dated 18.4.1964. Indeed, when she approached the Director General of Resettlement in Ministry of Defence, Government of India, it was clarified by communication dated 26.9.2003 addressed to second respondent that the petitioner is eligible for ex-Serviceman status. If she is ex-Service person and does not fall within the definition of 'officer', she is also eligible for assignment of land. … …"

9. In fact, the Division Bench of this Court in W.A.No.271 of 2023, dated 03.10.2023, considered the judgment of the learned single Judge of the composite High Court and dismissed the writ appeal filed by the Government. The Division Bench's order binds this Court and applies to the facts of the case.

10. Neither the petitioner nor the concerned authority brought the judgment passed by this Court in W.A.No.271 of 2023, dated 03.10.2023, to the notice of the 2nd respondent-District Collector. Had it been brought to the notice of the District Collector, in the considered opinion of this Court, the order would have been otherwise.

11. In **Mohinder Singh Gill Vs. Chief Election Commr.**[2], the Hon'ble Apex Court observed thus:

> "8. The second equally relevant matter is that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to court on account of a challenge, get validated by additional grounds later brought out. We may here draw attention to the observations of Bose, J. in Gordhandas Bhanji [**Commr. of Police, Bombay v. Gordhandas Bhanji**, 1951 SCC 1088: AIR 1952 SC 16] :
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> > "Public orders, publicly made, in exercise of a statutory authority cannot be construed in the light of explanations subsequently given by the officer making the order of what he meant, or of what was in his mind, or what he intended to do. Public orders made by public authorities are meant to have public effect and are intended to affect the actings and conduct of those to whom they are addressed and must be construed objectively with reference to the language used in the order itself."
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> Orders are not like old wine becoming better as they grow older."

12. It is pertinent to note that the Hon'ble Apex Court in **S.L. Kapoor Vs. Jagmohan**[3]categorically held that those orders which involve civil consequences to a person must conform to the principles of natural justice. The relevant paragraphs are reproduced as under:

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[2] (1978) 1 SCC 405 : 1977 SCC OnLine SC 323
[3] (1980) 4 SCC 379

"7. The old distinction between a judicial act and an administrative act has withered away and we have been liberated from the psittacine incantation of `administrative action'. Now, from the time of the decision of this Court in **State of Orissa v. Dr. (Miss) Binapani Devi & Ors**. "even an administrative order which involves civil consequences.... must be made consistently with the rules of natural justice". What are civil consequences? The question was posed and answered by this Court in **Mohinder Singh Gill & Anr. v. The Chief Election Commissioner, New Delhi & Ors**. Krishna Iyer J., speaking for the Constitution Bench said (at p. 308-309):

> "But what is a civil consequence, let us ask ourselves, by passing verbal booby-traps? `Civil consequence' undoubtedly cover infraction of not merely property or personal rights but of civil liberties, material deprivations and non-pecuniary damages. In its comprehensive connotation, everything that affects a citizen in his civil life inflicts a civil consequence".

The learned Judge then proceeded to quote from **Black's Legal Dictionary** and to consider the interest of a candidate at a Parliamentary election. He finally said:

> "The appellant has a right to have the election conducted not according to humour or hubris but according to law and justice. And so natural justice cannot be stumped out on this score. In the region of public law locus standi and person aggrieved, right and interest have a broader import".

13. Given the discussion, the order impugned suffers from violation of principles of natural justice and failure to consider the ratio laid down by the Division Bench of this Court in W.A.No.271 of 2023, dated 03.10.2023. The 1st petitioner is entitled to an assignment under an ex-servicemen quota. In fact, after this length of time, cancelling the patta is not only illegal but also arbitrary.

14. Accordingly, the Writ Petition is Allowed. The proceedings of the 2nd respondent vide D.Dis.No.254/2021/E2, dated 16.02.2024 (Ex.P1), are hereby

set aside. The 2nd respondent-District Collector or the concerned shall pass orders deleting the land to an extent of Ac.5.36 cents in S.No.46-16 of Denderu village, Kothavalasa Mandal, Vizianagaram District, from the list of prohibited properties under Section 22-A of the Registration Act, 1908 as expeditiously as possible. No order as to costs.

As a sequel, all pending miscellaneous applications shall stand closed.

JUSTICE SUBBA REDDY SATTI

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