

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

WRIT PETITION NO.20437 of 2019

ORDER:

This Petition is filed under Article 226 of the Constitution of India to issue a Writ of *Mandamus*, questioning the proceedings in Ref.A/650/2019, dated 03-12-2019 issued by the 5<sup>th</sup> respondent in pursuance of the proceedings in Ref/C/3696/2019, dated 03-12-2019, issued by the 4<sup>th</sup> respondent, and declare the same as illegal, unreasonable and violative of principles of natural justice, consequently direct the respondents herein to permit the petitioner society to operate de-silt and transport the sand in P.Gannavaram Sand Ramp, P.Gannavaram.

The petitioner is a Sand Quarry Boatmen & Fishermen Co-operative Society, registered under A.P. Co-operative Societies Act, and it is established *inter alia* for economic development of its members by undertaking contract works from the Government, public and private organizations/departments. The petitioner herein approached the respondents 4 and 5 and submitted representations seeking permission to de-silt and transport the sand from P.Gannavaram Sand Ramp, P.Gannavaram through boats. On 15-11-2019, the 5<sup>th</sup> respondent issued proceedings Ref.A/650/2019 granting permission to the petitioner society to operate de-silt and transport the sand in P.Gannavaram Sand Ramp, P.Gannavaram.

On 03-12-2019 the 5<sup>th</sup> respondent herein vide proceedings Ref.A/650/2019 cancelled the permission granted to the petitioner for de-silting and transportation of the sand from the allotted P.Gannavaram Sand Ramp. The proceedings are now challenged on the ground that no notice was issued before cancellation order and the Tahsildar is not competent to issue such cancellation order, more particularly, when the permission was

granted by the 4<sup>th</sup> respondent, the Revenue Divisional Officer herein. But, as per the recent G.O.Ms.No.71, dated 04-09-2019, the Tahsildar is not competent to cancel the permission, and the District Level Scrutiny Committee is competent to cancel such order with the permission of Deputy Director of Mines and Geology.

Whereas, the learned Government Pleader for Mines and Geology filed his written instructions while submitting that though P.Gannavaram permission is cancelled for de-silting and transportation of sand at P.Gannavaram, and permission is granted to Jonnallanka Sand Reach for the livelihood of this petitioner, and it is in accordance with law.

As seen from the material on record, the petitioner society was granted permission to operate de-silting and transportation of the sand at P.Gannavaram Sand Reach, and this is not disputed by this petitioner and the respondents also. But, the 5<sup>th</sup> respondent issued the impugned proceedings canceling the permission to de-silt and transport the sand at P.Gannavaram Sand Ramp. As per G.O.Ms.No.71, dated 04-09-2019, only the District Level Scrutiny Committee is competent authority either to grant permission for de-silting and transportation of sand or cancellation of the permission already granted. At best, the District Level Scrutiny Committee alone is competent as per the guidelines in G.O.Ms.No.71, dated 04-09-2019 for cancellation of permission for de-silting and transportation of sand, but not the Tahsildar.

In the impugned order, there is no reference about the decision taken by the District Level Scrutiny Committee for cancellation, but there is a reference about the higher authorities, no material is placed on record about the decision taken by the District Level Scrutiny Committee. Therefore, issuing the impugned order by the 5<sup>th</sup> respondent, canceling the permission granted for de-silting and transportation of sand at P.Gannavarm, is illegal

and apart from that, no prior notice was issued after affording reasonable opportunity to the petitioner to explain before passing such order. Therefore, the order passed by the 5<sup>th</sup> respondent is contrary to the principles of natural justice and G.O.Ms.No.71, dated 04-09-2019. Hence, the impugned order passed by the 5<sup>th</sup> respondent is hereby set aside on the sole ground, without touching the merits on other grounds urged. However, it is left open to the respondent competent authority to take action, in accordance with law, after affording reasonable opportunity to the petitioner.

In view of my foregoing discussion, I find it is a fit case to set aside the impugned order passed by the Tahsildar, the 5<sup>th</sup> respondent herein, by exercising power under Article 226 of the Constitution of India.

In the result, this Writ Petition is allowed setting aside the impugned order dated 03-12-2019. However, this Order will not preclude the competent authority to take appropriate action, in accordance with law. There shall be no order as to costs.

As a sequel, Interlocutory Applications pending, if any, shall stand closed.

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**JUSTICE M. SATYANARAYANA MURTHY**

Date: 23-12-2019

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