

THE HON'BLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

WRIT PETITION No.19662 of 2023

ORDER:

This Writ Petition is filed under Article 226 of the Constitution of India seeking 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 respondents for not taking action on the representations of the Society including through Spandana dated 24.7.2023 against the villagers of Lokonda Gram Panchayath, Hiramandalam Mandal, Srikakulam District for their interference in the rights of the members of the petitioner society to catch fish in Chakalivani Cheruvu and Pothalavani Cheruvu located in Bhageeradhapuram Village, Hiramandalam Mandal, Srikakulam District is bad, arbitrary, contrary to G.O.Ms.No.343 dated 10.4.1978 and also offends Articles 14, 19(1)(g) and 21 of the Constitution of India and to pass such other order or orders..”

2. Heard learned counsel for the petitioner, learned Government for Fisheries, learned Government Pleader for Social Welfare, learned Government Pleader for Panchayat Raj and Rural Development appearing for the respondents.

3. Learned counsel for the petitioner submits that the petitioner society was granted lease hold rights regarding fishing in respect of Chakalivani Cheruvu and Pothalavani

Cheruvu for a period of 2021-22 to 2023-24, more particularly, till 30.06.2021. She submits that the petitioner society has been conducting fishing activity for the year 2021-22 as well as 2022-23, but, while conducting fishing for the fasli year 2023-24 the unofficial respondents, more particularly, respondent Nos. 9 and 10, at the active support of the 8th respondent-Gram Panchayat, obstructing the fishing activity of the petitioner society on the ground that the original Gram Panchayat was bifurcated into two Gram Panchayats i.e, as Mahalakshmi Puram Gram Panchayat as well as Lokonda Gram Panchayat. She further submits that in view of the said bifurcation, the tanks against which the petitioner was granted lease hold rights for fishing activity is being obstructing by the unofficial respondents of the new Gram Panchayat and the same is contrary to the permission granted by the 7th respondent vide its letter dated 26.10.2021 apart from G.O.Ms.No.343 dated 10.04.1978. Aggrieved by the action of respondent Nos. 9 and 10 in obstructing the fishing activity of the petitioner, the present writ petition is filed.

4. On the other hand, learned Government Pleader appearing for the respondents furnished written instructions,

wherein, it is specifically stated that since the petitioner was granted lease hold rights in respect of two tanks namely Chakalivani Cheruvu and Pothalavani Cheruvu, the petitioner society is entitled for fishing activity till 30.06.2024. It is further stated that due to the bifurcation of the original Gram Panchayat into two Gram panchayats i.e., as Mahalaskhmi Puram Gram Panchayat and Lokonda Gram Panchayat the fishing activity of the petitioner cannot be obstructed as the petitioner was already granted lease hold rights till 30.06.2024.

5. On the other hand, learned counsel for the 8th respondent submits that the Gram Panchayat is not creating any obstructions but some of the unofficial respondents/ respondent Nos. 9 and 10 and other residents of the new Gram Panchayat might have been obstructing the fishing activities of the petitioner. He further submits that once the petitioner granted lease hold rights pursuant to the G.O.Ms.No.343, dated 10.04.1978, the Gram Panchayat even after bifurcation has no right to obstruct the lease hold rights of the petitioner.

6. In view of the submissions made by the learned counsel for the petitioner, learned Government Pleader appearing for the respondents, on perusal of the material placed before this

Court, the fact remains that the petitioner was granted lease hold rights for period of three years which is still in existence and the said lease hold rights expires by 30.06.2024 in respect of two tanks (Chakalivani cheruvu and Pothalavani Cheruvu tanks) situated within the jurisdiction of the 8th respondent. While so, even subsequent to the bifurcation, the Gram Panchayat cannot interdict with the lease hold rights already granted in favour of the petitioner society as per the G.O.Ms.No.343 dated 10.04.1978. The said G.O. is also applicable to the new Gram Panchayat also. It is an admitted fact that the Gram Panchayat is not, in any way obstructing with the fishing activity of the petitioner as stated by the learned counsel for the Gram Panchayat. If the unofficial respondents are obstructing the activity of the petitioner, it is for the petitioner society to take appropriate action against the individuals who are obstructing the fishing activity of the petitioner by initiating appropriate proceedings before the appropriate court of law.

7. In view of the foregoing discussion and on instructions submitted by the learned Government Pleader, the present writ petition is allowed. However, the petitioner is entitled for

fishing rights in respect of the two tanks ie., Chakalavani Cheruvu and Pothalavani Cheruvu up to 30.06.2024 without there being any obstructions from any quarter. It is needless to observe that the petitioner is entitled to take appropriate action if there are any obstructions by the unofficial respondents by initiating appropriate proceedings before appropriate Court of law. There shall be no order as to costs.

Consequently, Miscellaneous Petitions, if any, pending in the writ petition shall stand closed.

VENKATESWARLU NIMMAGADDA, J

14.08.2023
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