

**APHC010388612023 IN THE HIGH COURT OF ANDHRA PRADESH ::
AMARAVATI
(Special Original Jurisdiction)**

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FRIDAY ,THE TWELFTH DAY OF APRIL
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SMT JUSTICE V.SUJATHA

WRIT PETITION NO: 19974 OF 2023

Between:

PINNAMARAJU GOPALA KRISHNAMRAJU

...PETITIONER(S)

AND

THE GENERAL MANAGER AND OTHERS

...RESPONDENT(S)

Counsel for the Petitioner(s):SRI. T VISHNU TEJA

Counsel for the Respondents: GP FOR FISHERIES

WRIT PETITION NO: 16827 OF 2023

Between:

PINNAMARAJU VENKATA SRINIVASA RAJU

...PETITIONER(S)

AND

THE GOVERNMENT OF AP AND OTHERS

...RESPONDENT(S)

Counsel for the Petitioner(s):SRI. MORTHA SRINU BABU

Counsel for the Respondents: GP FOR REVENUE

The Court made the following common order:

COMMON ORDER:

The writ petitioner in W.P.No.19974 of 2023 has filed the present writ petition challenging the inaction of the respondents in not taking further steps against the respondent Nos.6 to 9 though a final notice dated 14.07.2023 has been issued to the respondent Nos.6 to 9, including the 7th respondent who is the petitioner in W.P.No.16827 of 2023. Therefore, I am of the view that it is appropriate to decide both the petitions by common order taking Writ Petition No.19974 of 2023 as leading petition.

W.P. No.19974 of 2023 came to be filed under Article 226 of the Constitution of India seeking the following relief:-

“...to issue a writ or order more particularly one in the nature of Writ of Mandamus declaring the action of the 5th Respondent in not taking further steps against the Respondents Nos.6 to 9 for continuing the aqua culture with salt water despite issuance of final notice dated 14.07.2023 as illegal, arbitrary, colorable exercise of power violation of Article 14 and 300 A of the Constitution of India and consequently direct the 5th Respondent to ensure that the Respondents No.6 to 9 do aqua culture using fresh water only as stipulated under the statute and the permissions granted and pass such....”

The petitioner herein is the owner of the lands situated in Sy.Nos.683/4, 744/7, 690, 742/2 admeasuring to an extent of Acs.3.23 cents in total, which consists of coconut groves. While the matter stood thus, few of the abetting landowners have obtained necessary permissions from the statutory authorities for cultivation of aqua culture with fresh water, but, the said individuals including the respondent Nos.6 to 9 have started digging bore wells and have started aqua culture using salt water, due to which the coconut groves situated in the petitioner's land are being affected.

The grievance of the petitioner is that though he has requested the unofficial respondent Nos.6 to 9 not to dig bores, the same has been dug by the unofficial respondents, which action is contrary to the permissions granted to them. As such, the petitioner has submitted various representations to the respondent authorities on 18.10.2021, 05.06.2023, 19.06.2023, 26.06.2023

and 10.07.2023 requesting to conduct appropriate enquiry and to take appropriate action on the unofficial respondents, in pursuance of which, the official respondents on 12.07.2023 have visited the subject lands and found that the respondent Nos.6 to 9 are doing aqua culture with salt water.

Subsequently, the respondent authorities have issued notice dated 13.06.2023 to the respondent Nos.6 to 9 herein, challenging which, the 7th respondent herein has filed W.P.No.16827 of 2023 before this Court, wherein an interim order was granted on 12.07.2023 as under:

“...Considering the submissions made by the learned counsel for both the parties, there shall be an interim direction to the respondent Nos.2 to 6 not to interfere with the peaceful possession and enjoyment of the petitioner’s property in an extent of land Ac.2.4 cts. In kata No.194 in Sy.No.689-1 and for an extent of land Acs.2.23 cts. in kata No.1404 in Sy.No.689-1, 745-1 and 745-3, Kesanakurupalem Village, I Polavaram Mandal, Dr. B.R.Ambedkar Konaseema District, pending further orders.”

Subsequently, the respondent authorities have issued a final notice dated 14.07.2023 wherein it is stated as under:

“Therefore, considering this notice as final notice, you are hereby informed that within 4 days of receipt of this notice, you should completely remove the salt water from the shrimp ponds and fish culture should be done only with good water as per the rules and the salt water bores should be removed completely. This is to inform that if you do not comply with these points, appropriate action will be taken against you as per the provisions of APSADA Act-2020.”

The main grievance of the petitioner is that though the time stipulated in the final notice dated 14.07.2023 had lapsed, no further steps were initiated by the respondent Nos.2 to 5 against the respondent Nos.6 to 9. It is also the case of the petitioner that though the interim orders were granted in respect of the notice dated 13.06.2023 in respect of the 7th respondent herein alone, nothing prevented the respondent authorities to proceed further basing on the

notice dated 14.07.2023 against the other unofficial respondents. Aggrieved by the same, the present writ petition is filed.

The respondent No.5 has filed a counter affidavit duly stating that the respondent Nos.6 to 9 are possessing licenses granted for fresh water aquaculture under the provisions of APSADA Act, 2020, but, they are resorting to unauthorized culture of L.vannamei (Prawn) in saline water by tapping through bore wells, which is contrary to the licenses obtained by them for fresh aquaculture. The 7th respondent herein has leased out his land to one Sri. Rudraraju Venkata Ramakrishna Raju, who is currently resorting to unauthorized culture of L.Vannamei (Prawn). Aggrieved by the same, the petitioner has filed three spandana complaints, pursuant to which three notices were served to all the defaulting farmers requesting to stop the unauthorized aquaculture activities within stipulated time, if not action would be taken for violation of the guidelines under the APSADA Act, 2020 and Rules; and G.O.Ms.No.7, AH, DD&Fisheries, (Fish.II) Department, dated 16.03.2013.

Aggrieved by the said notices, the 7th respondent herein has filed W.P.No.16827 of 2023 before this Court and has obtained interim order on 12.07.2023, referred supra. It is further stated that the unofficial respondents herein are liable for action against their unauthorized aquaculture practices as per Rule 24 and 25 of APSADA Rules and the violations recommended at Annexure-1 of G.O.Ms.No.7, AH,DD and Fisheries (Fish.II) Department, dated 16.03.2013. As the W.P.No.16827 of 2023 filed by the 7th respondent herein is pending for adjudication, no further steps have been initiated against the unauthorized aquaculture of the 7th respondent.

Heard learned counsel for the petitioners, learned Government Pleader for Fisheries and learned Government Pleader for Revenue.

Learned counsel for the petitioner while reiterating the facts as mentioned in the writ petition has further argued that though the respondents

have visited the subject lands of the unofficial respondents on 12.07.2023 and has issued a final notice dated 14.07.2023 directing the unofficial respondents to perform aquaculture using fresh water by providing 4 days time, in spite of expiry of the stipulated time period, the respondent authorities are not initiating steps against the unofficial respondents; in view of the interim order dated 12.07.2023 granted by this Court in W.P.No.16827 of 2023 filed by the 7th respondent herein. Learned counsel for the petitioner contended that the interim order granted by this Court on 12.07.2023, is with respect to the notice dated 13.06.2023, but nothing has prevented the respondent authorities to act basing on the notice dated 14.07.2023. Due to the inaction of the respondent authorities, the unofficial respondents are continuing the cultivation of fish and prawn tanks with salt water, which in fact is affecting the petitioner's coconut groves. He further requested this Court to direct the respondent authorities to ensure that the respondent Nos.6 to 9 perform aquaculture in their lands using fresh water only as stipulated under the statute and as per the permissions granted.

On the other hand, learned Government Pleader for Fisheries submits that among the unofficial respondents, the 7th respondent has leased out his land with existing aquaculture farm to one Sri. Rudraraju Venkata Ramakrishna Raju, who currently resorts to unauthorized culture of L.vannamei (Prawn) at the said property, though the 7th respondent possess license that was granted for fresh water aquaculture under the provisions of APSADA Act, 2020, which in fact is contrary to the provisions of the said Act. Informing the aforesaid action of the 7th respondent, the petitioner filed spandana complaints, subsequent to which, the unofficial respondents were served with notices including notice dated 13.06.2023, directing them to stop the unauthorized aquaculture activities within stipulated time, failing which action would be taken for violating the guidelines under the APSADA Act, 2020 and G.O.Ms.No.7, dated 16.03.2013. However, challenging the said notice dated 13.06.2023, the 7th respondent has filed W.P.No.16827 of 2023

and has obtained interim order on 12.07.2023, wherein the official respondents were directed not to interfere with the possession of the petitioner's property. Subsequently, the respondent authorities have issued final notice dated 14.07.2023, directing the unofficial respondents, to remove the salt water from the ponds within four days, otherwise action would be taken as per the provisions of APSADA Act, 2020. Learned Government Pleader further argued that the respondent Nos.6 to 9 are liable for action for violating the guidelines and action against them has to be initiated duly following the procedure as per Rule 24 and 25 of APSADA Rules and G.O.Ms.No.7, dated 16.03.2013. But, in view of the interim order dated 12.07.2023, the respondent authorities are unable to proceed further in initiating action against the unofficial respondents.

On a perusal of the counter affidavit filed by the respondents, it can be understood that the 7th respondent herein was granted a license by the respondent authorities for carrying on fresh water aquaculture under the provisions of APSADA Act, 2020. But, the 7th respondent herein has leased out his land with the existing aquaculture farm to one Sri. Rudraraju Venkata Ramakrishna Raju, who is currently resorting to unauthorized aquaculture of L. Vannamei (Prawn) in the said property. The said fact was brought to the notice of the respondent authorities by the petitioner by way of Spandana complaint subsequent to which, the official respondents have issued notice to the respondent No.7 on 13.06.2023 directing to stop the unauthorized aquaculture activities, failing which action would be initiated in accordance with G.O.Ms.No.7, dated 16.03.2013. Challenging the said notice, the 7th respondent has filed W.P.No.16827 of 2023 wherein this court was pleased to grant an interim order directing the official respondents not to interfere with the possession of the petitioner therein i.e. the 7th respondent. Further, pending the said writ petition, the respondent authorities have issued a final notice on 14.07.2023 directing the 7th respondent to remove the salt water from the ponds within a period of four days, or else action would be initiated as per the

provisions of the APSADA Act, 2020. In spite of the same, the respondent authorities have failed to initiate action against the respondent No.7 under the guise of the interim orders granted by this Court in W.P.No.16827 of 2023 wherein this Court has directed the respondents only not to interfere with the possession of the 7th respondent, but have not restricted the respondent authorities from continuing the enquiry proceedings.

In view of the same, instead of keeping both the writ petitions pending, this Court feels it appropriate to dispose of the writ petitions by directing the respondents to issue fresh notices to the petitioner and as well as unofficial respondents in W.P.No.19974 of 2023 and conduct an enquiry as per the guidelines issued under APSADA Act, 2020 and G.O.Ms.No.7, dated 16.03.2013. Thereafter, if it is found that the unofficial respondents are still carrying on unauthorized aquaculture activities in their land, the official respondents are at liberty to take appropriate action in accordance with law.

Accordingly, these writ petitions are disposed of. There shall be no order as to costs.

Miscellaneous petitions pending, if any, in the Writ Petitions, shall stand closed.

JUSTICE V.SUJATHA

GSS
Date:12.04.2024