
(2002) 06 AP CK 0147

In the Andhra Pradesh High Court

Case No : WA No. 932 of 2002 and WP No. 26002 of 2001

K.V.V. Satyanarayana

APPELLANT

Vs

District Level Committee, Eluru, West Godavari District and
Others

RESPONDENT

Date of Decision : 11-06-2002

Acts Referred:

Andhra Pradesh Minor Mineral Concession Rules, 1966 — Rule 9B(2)

Citation : (2002) 4 ALD 493 : (2002) 4 ALT 641

Hon'ble Judges : Ar. Lakshmanan, C.J; Ghulam Mohammed, J

Bench : Division Bench

Advocate : Shobha N., in WA No. 932 of 2002 and WP No. 26002 of 2001, for the Appellant; Govt. Pleader for Panchayat Raj and Ad. General for Respondent Nos. 1 and 2 in WA No. 932 of 2002 and In WP No. 26002 of 2001 and G. Krishnamurthy in Respondent Nos. 3 to 29 in WA No. 932 of 2002 and in WP No. 26002 of 2001, for the Respondent

Judgement

Dr. Ar. Lakshmanan, C.J.

1 . By consent of all the parties, the writ appeal and the writ petition are taken up for hearing. Heard all parties.

2. Neither the District Level Committee nor the District Panchayat Officer has filed any counter-affidavit to the writ petition, which was filed by the appellant herein to call for the records pertaining to the telegram dated 13-12-2001 issued by the second respondent, District Panchayat Officer, Eluru and quash the same is arbitrary, illegal, unjust, violative of principles of natural justice and without jurisdiction. The telegram issued by the second respondent reads as follows:

"To stop sand quarrying with proclainer engage labour with immediate effect -- District Panchayat Officer Eluru."

3. According to the appellant/writ petitioner, he is a sand contractor and pursuant to the notification issued by the District Level Committee, Eluru in auction notice

dated 18-9-2001, he participated in the auction held on 5-10-2001 and became highest bidder for Kanuru Agraharam Teeparu reach for Rs.33,59,000/-. The appellant entered into lease agreement and was accorded sanction for quarrying sand for a period of one year from 31-10-2001 to 30-10-2002. In terms of conditions, the appellant strengthened the ramp, laid approach roads, paid compensation to the pattedars and has been quarrying sand without any complaint whatsoever. While so, due to faction between labourers of two communities, Scheduled Caste and Kapus, the quarrying operation could not be done. Since, the appellant could not do quarrying operation due to clash between two groups, he represented to the District Level Committee to enquire and accord permission to quarry by proclainer. The District Level Committee in its meeting held on 17-11-2001 resolved to grant permission. In terms of the orders of District Level Committee, the District Panchayat Officer issued proceedings in reference No.5515/ 2000 A3-P, dated 11-2001, issued on 19-11-2001 permitted use of proclainer in view of disputes between two factions of labourers. The permission granted to the appellant was in terms of conditions imposed by Godavari head works. The appellant has been carrying on quarrying operations. While so , he received a telegram from the District Panchayat Officer to stop quarrying with proclainer and engage labourers with immediate effect.

4. According to the appellant, the telegram seems to have been issued at the behest of rival parties without any enquiry or opportunity. No notice was issued before passing the order, nor speaking order was passed as to why the appellant should stop quarrying. Since the order passed was without jurisdiction and by an incompetent authority, that the District Level Committee alone has got powers to pass orders and not the District Panchayat Officer, the appellant approached this Court by filing the writ petition.

5. According to the appellant, entire quarrying operation has come to a standstill. As the dispute between the labourers was not resolved and solved, they stopped working and the appellant has been asked to use the proclainer. Our attention was drawn to Rule 9-B (2) (b) of the A.P. Minor Mineral Concession Rules, 1966, which reads:

"The District Level Committee shall be the authority competent to decide on any matter or problem arising during the course of implementation of these rules."

6. According to the appellant, the rule does not authorise the District Panchayat Officer to pass orders. The District Panchayat Officer is only a Member-Convenor. Earlier when the appellant made a representation, after thorough inspection and enquiry only the District Level Committee granted permission as the dispute between labour union was in existence for the past one year. The appellant states that pursuant to the auction conducted, he had deposited a sum of Rs.33.59 lakhs, purchased machinery and paid compensation to pattedars, which also caused another five lakh rupees. In the circumstances, the appellant as stated above has filed the writ petition with the above prayer.

7. Pending writ petition, the appellant sought for interim order from this Court to suspend the telegram dated 13-12-2001. A learned single Judge of this Court by an order dated 21-12-2001 suspended the operation of telegram issued by the District Panchayat Officer. Pursuant to the interim order, the appellant was using proclainer without engaging labourers. While so, twenty seven labourers/workers preferred an application for impleading them as party respondents and the said application was ordered and at their instance the learned single Judge passed an order vacating the interim order dated 21-12-2001. Aggrieved by the said order, the writ appeal has been filed.

8. We have heard Counsel appearing for the respective parties. The learned Counsel for the appellant would submit that the learned single Judge has failed to consider that the competent authority is the District Level Committee which has granted permission for using proclainer and the District Panchayat Officer is not the competent authority to revoke the same. It is further argued that the labourers have not been working in the quarry area causing loss to the appellant at the instance of rival tenderer and therefore as ordered by the District Level Committee, the appellant should be permitted to use the proclainer without engaging the labourer.

9. On the other hand, learned Counsel appearing for twenty-seven labourers invited our attention to Clause (4) of the agreement entered into between the appellant and the Government. Clause (4) reads as under:

"No quarrying of sand will be done with proclainers and such large scale labourers displacing machinery."

10. Interpreting this clause, learned Counsel appearing for the labourers would submit that the appellant is prohibited from using the proclainer and that he shall use only the labourers. The learned Counsel appearing for the respondents would also submit that the using of proclainer is not permitted, which would affect the environment and put the labour available in the area in question out of employment, and that this will only create further unemployment among the workers.

11. Be that as it may, the contention raised by the learned Counsel for the appellant/writ petitioner merits acceptance. We have already referred to the relevant rule, which clearly says that the District Level Committee alone shall be competent to decide any matter or problem arising during the course of implementation of the rules. According to the appellant, since there is a faction between labourers belonging to two communities, the appellant is not in a position to operate quarrying inspite of depositing more than thirty-three lakhs and therefore as ordered by the District Level Committee earlier, he should be permitted to use the proclainer. The said order reads as follows:

"In the reference 1st cited above Kanuru Agraharam and Teeparu reach dated 5-10-2001 the bidder requested to grant permission for using of proclainer because the dispute between the sand loading workers are interrupting to the

sand loading.

With the reference 2nd cited above sand auction committee, West Godavari District passed resolution auction to the bidder of Kanuru Agraharam and Teeparu reach and granted permission to use proclainer for loading of sand.

Permission was granted only because of dispute between the loading workers. But auction bidder must follow the terms and conditions of the Godavari Head Works to use proclainer loading of sand."

12. The contention of the learned Counsel for respondents is that using of proclainer will make the labourers without any work and therefore the appellant shall not be permitted to use the proclainer. In our opinion, the telegraphic order issued by the District Panchayat Officer, Eluru is without any authority. We, therefore, have no hesitation in setting the telegram issued by the District Panchayat Officer, Eluru and remit the matter to the District Level Committee to give an opportunity to the appellant and also to twenty-seven labourers, who filed the petition to implead themselves as party-respondents in the writ petition and at whose instance the interim stay granted by this Court was vacated.

13. It is not in dispute that there is dispute between two groups of labourers. It is also not in dispute that the appellant had already deposited rupees thirty-three lakhs and odd, paid compensation to the pattedars and also incurred various other expenses. The appellant has deposited the entire amount as per agreement. Under such circumstances, the appellant shall not be deprived of lifting the sand pursuant to the deposit made and agreement entered into between the parties. Since there is dispute there cannot be objection on the part of the labourers/respondents from using the proclainer. However, the interest of labourers should also be safeguarded. Therefore, the District Level Committee shall immediately convene the meeting of the appellant and twenty-seven labourers and resolve the dispute amongst them. If there is no co-operation by the labourers, the District Level Committee shall issue permission to the appellant to use proclainer to complete the quarrying operation within the time stipulated. It is also not in dispute that because of the dispute amongst the labourers, the appellant was not in a position to carry on quarrying operation for some time. Therefore, it is necessary that the District Level Committee shall give further time to the appellant to carry on quarrying operation, if circumstances warrant.

14. The learned Counsel for the twenty-seven labourers would submit that the labourers will certainly co-operate with the appellant in carrying on quarrying operations and that they will not demand unreasonable amount by way of salary, etc. We record the submission made by the learned Counsel for the labourers, who are now made as parties to the writ petition. The order of the District Panchayat Officer is, therefore, set aside and the matter is remitted to the District Level Committee, Eluru to decide the issue and resolve the dispute between the appellant and twenty-seven labourers within two weeks from the

date of receipt of a copy of this order. In the meanwhile, the appellant is permitted to carry quarrying operations and use the proclainer and also engage labourers, who are ready and willing to come and work in the quarry.

15. The writ appeal and the writ petition are disposed of accordingly. No order as to costs.