(2001) 08 AP CK 0157

In the Andhra Pradesh High Court

Case No : Writ Petition No. 11888 of 1993

V. Pydi Shetti APPELLANT

Vs

District Collector, Vizianagaram and others RESPONDENT

Date of Decision : 13-08-2001

Acts Referred:

Andhra Pradesh Water Tax Act, 1988 — Section 3, 4
Andhra Pradesh Water Tax Rules, 1988 — Rule 3(1)

Citation : (2001) 5 ALD 618

Hon'ble Judges : S.R. Nayak, J;G. Bikshapathy, J

Bench : Division Bench

Advocate : Mr. Gudipati Venkateswara Rao, for the Appellant; Government Pleader for Revenue, for the Respondent

Final Decision : Dismissed

Judgement

S.R. Nayak, J.—This writ petition is filed by Sri Pydi Shetti, Ex-Sarpanch of the Bangaru Raju Peta Village claiming to be a pro bono public character and as a public interest litigation to espouse the cause of agriculturists of Bangaru Raju Peta Village. The prayer in the writ petition reads:

"For the reasons stated in the accompanying affidavit the above-named petitioner prays that this Hon''ble Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus, declaring the action of the respondents in collecting water tax from the farmers of Bangaru Raju Peta Village as illegal, arbitrary, null and void and to issue a consequential direction to delete the lands surrounding the Seri tank of Bangaru Raju Peta Village, Denkada Mandal, Vizianagaram District from the 1st respondent gazette notification No. 44 , dated 27-6-1990 and to pass such other order or order as this Hon''ble Court deem fit and proper in the circumstances of the case."

2. The only contention urged by the learned Counsel for the petitioner at the time of final hearing is that as the Seri tank receives only rain water and there is no flow of water from any channel or reservoir or from any other source, the said

tank cannot be treated to be an irrigation source to attract the provisions of Andhra Pradesh Water Tax Act, 1988 (for short ''the Act''). That is the only ground taken in the writ petition and urged before us at the time of hearing. The petitioner himself has enclosed a copy of the notification issued by the District Collector, Vizianagaram in Form No. 1 u/s 4 of the Act read with Rule 3(1).

3. Section 3 of the Act provides that with effect on and from the date of commencement of the Act, the Government shall be entitled to levy and collect water tax in respect of every land receiving water for irrigation purposes from any Government source of irrigation notified u/s 4, for each Fasli year at the rates specified in the schedule.

4. Section 4 further provides that the District Collector shall specify from time to time by notification, for the purposes of the Act, the Government sources of irrigation and the lands under the commendable ayacut therein lying within its jurisdiction and where any of the said Government sources of irrigation and the lands under the commendable ayacut therein, lie in more than one District such notification shall be issued by the Commissioner of Land Revenue.

5. The District Collector has issued notification u/s 4 showing Seri tank as the Government source of irrigation to irrigate the lands specified in the notification. Simply because, only the rain water collected in the Seri tank is being used by the ayacutdars to irrigate their lands and the Seri tank does not receive any water from other sources, it cannot be said that the Seri tank is not a Government source or irrigation within the meaning of that term u/s 3 of the Act.

6. There is no controversy between the parties that the Seri tank is a Government tank. Therefore, the rain water collected in the Seri tank also belongs to the Government and it is a Government property. If that is so, the water drawn from Seri tank and used by the ayacutdars for irrigating their lands should be held to be from the Government source within the meaning of that term u/s 3 of the Act. Therefore, we do not find any merit in the contention of the learned Counsel. The writ petition is therefore dismissed, however, with no order as to costs.

