courtkutchehry.com

Company: Sol Infotech Pvt. Ltd.
Website: www.courtkutchehry.com
Printed For:
Date: 04/11/2025

(2002) 6 ALT 344

Andhra Pradesh High Court

Case No: Writ Petition No. 14027 of 1991

Gudimetla Narasimha Murthy and Others		APPELLANT
	Vs	
Government of A.P., Revenue Department and Others		RESPONDENT

Date of Decision: Oct. 31, 2002

Acts Referred:

- Andhra Pradesh Muttas (Abolition and Conversion into Ryotwari) Regulations, 1969 - Regulation 35(2), 4(4), 9

Citation: (2002) 6 ALT 344

Hon'ble Judges: Goda Raghuram, J

Bench: Single Bench

Advocate: M.R.K. Chowdari and Sudheer Kumar, for the Appellant; Government Pleader, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

Goda Raghuram, J.
The 16 petitioners claim to have been granted pattas by the Settlement Officer, Peddapuram (now at Visakhapatnam) under The Andhra Pradesh Muttas (Abolition and Conversion into Ryotwari) Regulation, 1969 (for short "the Regulations") in file No.3123/A/1 dated 2-2-1975. Pursuant to the pattas asserted to have been granted to them, the petitioners applied for permission to cut the tree growth in the lands in respect of which they were granted pattas in Sy. Nos. 33/1 to 33/16 of Puttaganti village of erstwhile Yellavaram Taluk, presently situated in Y. Ramavaram Revenue Mandal of E.G. District, in an extent of Ac. 335.33 gts. As the applications made in this behalf were not responded by the District Collector, E.G. District the petitioners filed W.P. No. 14272/86

for appropriate relief.

2. In the above writ petition the D.F.O. filed a counter-affidavit dt. 27-2-1987. This counter asserted that appeals dt. 17-9-1978 were filed against the grant of pattas in favour of the petitioners, which were pending before the Director of Settlements, Hyderabad. In view of the above statement in the counter-affidavit of the DFO, the writ petition was disposed of by the judgment dt. 17-4-1987 directing the Director of Settlements, the 2nd respondent herein, to dispose of the appeals preferred by the Forest Department within 8 weeks from the date of receipt of a copy of the order in W.P. No. 14272/86.

3. Upon receipt of the judgment of this court, the 2nd respondent by his communication dt. 28-8-87 informed the petitioners that on verification of the records it was revealed that no such appeals were pending and in the circumstances the question of disposing of the appeals pursuant to the order of this court did not arise. Thereupon a show-cause notice dated 29-8-87 was issued by the 2nd respondent in suo motu exercise of power and recording therein that the Settlement Officer, Peddapuram had granted pattas in favour of the petitioners irregularly and in violation of the provisions of the Regulation. This show-cause notice called upon the petitioners to respond why the order of the Settlement Officer, Peddapuram, be not re-examined for further action.

4. Aggrieved by the show-cause notice the petitioners filed W.P.No.251/88 assailing the suo motu exercise of jurisdiction by the 2nd respondent herein under Regulation 4(4) of the Regulations. A learned Single Judge allowed the writ petition. The 2nd respondent herein thereupon preferred WA No. 1879/88. The Division Bench came to the. conclusion that valuable public property and rights therein were involved and that in the circumstances the delay in the exercise of suo motu power was not so inordinate as to render the very exercise unreasonable or arbitrary. This conclusion was arrived at on an analysis of the various circumstances referred to in the order of the Division Bench of this court. Consequently the Division Bench set aside the order of the learned Single Judge and allowed the writ appeal directing the 2nd respondent herein to conclude the enquiry pursuant to the show-cause notice dated 29-8-1987 expeditiously.

5. After receipt of the order of the Division Bench the power and jurisdiction of the Director of Settlements available under Regulations 4(4) and 9 of the Regulation was delegated to the District Collectors concerned qua the rule notified in G.O.Ms. No. 741 Revenue (JA) Department dated 9-3-1991. Apropos the said delegation all the power, authority and jurisdiction hitherto exercisable by the Director of Settlements was to be exercised by the concerned District Collectors - powers inhering under Regulations 4(4) and 9 of the Regulations.

6. The petitioners have instituted this writ petition assailing delegation of powers to the District Collectors by G.O.Ms. No. 741, on a plurality of grounds. Sri M.R.K. Chowdary, learned Senior Counsel appearing for the petitioners contends:

(A) That the power to delegate available under Regulation 35(2)(e) is a power that enables the enactment of a rule facilitating the delegation of the power of the Government or any officer or authority, but does not extend to the enabling of delegation itself under the rule.

(B) In specie the contention is also that the enumeration of the authority on whom the power is to be conferred is outside the scope of the rule making power under Regulation 35(2)(e).

(C) That in the scheme of the Regulation the Director of Settlements must be inferred to be an authority who is engendered with a certain level of expertise in the area of the enforcement of settlement regulations in general and the Muttas Regulation in particular. The conferral of appellate or revisional power on the Director of Settlements therefore subserves the valuable legislative purpose of conferring such oversight powers on a person who by dint of experience and special knowledge in the field, is invested with the necessary degree of skills and expertise in correcting the errors, if any, of a Settlement Officer. The delegation of such power in particular powers under Regulations 4(4) and 9 of the Regulation, to the District Collector constitutes a subservation of the legislative scheme underlying the regulation and should be held to be an arbitrary exercise of the rule making power under Regulation 35 of the Regulation.

7. In the considered view of this court none of these contentions commend themselves to this court for acceptance.

8. The grant of rule making power under Regulation 35 is amplitudinous in its sweep. Regulation 35(2)(e) of the Regulation which was invoked for issuing G.O.Ms. No. 741 reads, to the extent relevant and necessary, as under:

"35. Power to make rules.- (1) The Government may, by notification published in the Andhra Pradesh Gazette, make rules for carrying out all or any of the purposes of this Regulation.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for.-

X X X

(e) the delegation of the powers conferred by this Regulation on the Government or any authority, officer or person;

x x x

9. On a true and fair construction of Regulation 35 it is apparent that there are no limiting words to diminute the exercise of the rule making power. Regulation 35(2)(e) is also clear and enables the making of a rule to provide for delegation of powers conferred by the

Regulations on a specified authority to any other authority, officer or person. In the light of such plenitudinous grant of rule making power, no applicable interpretive principles warrant a constructing interpretation as suggested on behalf of the petitioners.

10. The other contention on behalf of the petitioners does not also warrant acceptance. Regulation 2 is the definitions clause and Clause (e) thereunder defines "Director of Settlements" to mean the officer appointed as such by the Government. It is not that the Director of Settlements appointed under other enactments is automatically the Director of Settlements but the officer appointed as Director of Settlements under the Regulations is the Director of Settlements. The Regulation also does not set out any qualifications as a condition precedent to hold the office of the Director of Settlements. Regulation 4 posits the appointment and functions of Settlement Officer and sub-regulation (4) thereof inheres in the Director of Settlements the power either suo motu or on an application to cancel or revise any order or proceedings of the Settlement Officer. In this textual and contextual setting, no legitimate inference is possible that a certain degree of specialisation or expertise was legislatively intended in the office of Director of Settlements. A wide swathe of discretion was conferred on the Government to identify an officer to be appointed as a Director of Settlements. In the absence of any signal from the substantive legislative scheme enabling an inference as to a degree of expertise in the office of Director of Settlements, the impugned rule cannot be invalidated on a speculative apprehension that the Director of Settlements requires a certain degree of skill and expertise and such skill or expertise is lacking in the " District Collector to whom the power is delegated by the impugned rule. The presumptive validity of subordinate legislation continues and nothing is brought out on behalf of the petitioners that militates against that presumption.

11. On the aforesaid analysis I find no infirmity in the delegation of power of the Director of Settlements available under Regulations 4(4) and 9 of the Regulations in favour of the District Collectors qua G.O.Ms. No. 741 dated 9-8-1991 and consequently the challenge to the said G.O. must fail.

12. Sri Chowdary, learned Senior Counsel, however, states that the petitioners have another objection to the show-cause notice dt. 29-8-97, of arbitrariness and irrationality in the exercise of the suo motu power by the Director of Settlements and that as the District Collector, E.G. District is now exercising the power of Director of Settlements, these objections will have to be considered by the said authority and that the District Collector acting as Director of Settlements qua the delegation under the impugned rule may not examine or deal with such objections with regard to the validity of the exercise of suo motu power.

13. This court is unable to comprehend the apprehension in this regard. The exercise of power under Regulation 4(4) or 9 of the Regulations is an exercise of a quasi-judicial power and jurisdiction. Integral to such exercise is a concomitant obligation to consider all objections to such exercise, due application of mind to the facts on record including the

objections put forth to the exercise of jurisdiction and to record reasons on all aspects and disputations. Needless to state that in dealing with the issue before him the District Collector, E.G. would reckon and duly apply his mind to all the objections raised to the exercise of suo motu jurisdiction and record his reasons on each one of those objections. The petitioners are always at liberty, if aggrieved against any final decision taken by the District Collector exercising the jurisdiction under Regulations 4(4) and 9 of the Regulations to challenge the same in an appropriate forum. As a considerable time has flown by, it is but appropriate and fair that should the District Collector, E.G. District wish to pursue the suo motu enquiry, he must give adequate opportunity by way of a written notice to all concerned and in particular the writ, petitioners.

14. Subject to the observations above, the writ petition is dismissed. No order as to costs.