



IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI
TUESDAY, THE FOURTH DAY OF JULY,
TWO THOUSAND AND TWENTY THREE

:PRESENT:

THE HONOURABLE SRI JUSTICE VENKATESWARLU NIMMAGADDA
IA No. 1 OF 2023
IN
WP NO: 15715 OF 2023

Between:

1. Y.V.Satya Narayana Raju, S/o Y.V. Rama Krishna Raju Aged 60 years, Occ. Cultivation, R/o 1-123, R/o Veeravasaram Village and Mandal, West Godavari District.
2. K. Venkatapathi Raju, S/o K. Venkatarama Raju Aged. 57 Years Occ. Cultivation, R/o 1-222, Main Road, Nelamuru Village Penumantra mandal, West Godavari District.
3. P. Srinivasa Raju, S/o Venkata Ramakxishna Aged. 42 Years Occ. Cultivation, D.No. 1-65/1, Panchayati Street, Nelamuru, Penumantra Mandal, West Godavari District.
4. K. Rama Raju, S/o Venkata Rama Raju Aged. 63 Years Occ. Cultivation, D.No. 1-222, Main Road, Nelamuru, Penumantra Mandal, West Godavari District.
5. N. Rama Mohan Raju, S/o Samba Raju Aged. 48 Years Occ. Cultivation, D.No. 1-40, Munasubugari Street, Nelamuru, Penumantra Mandal, West Godavari District.
6. Gunturi Geetha Durga, W/o Srinivasa Raju Aged. 36 Years Occ. Cultivation, R/o 1-123, Main Road, Nelamuru Village, Penumantra Mandal, West Godavari District.
7. N. Venkata Rama Raju, , S/o Murthy Raju Aged 57 Years Occ. Cultivation, D.No. 1-43, 1st Ward, V.M. Street, Nelamuru, Penumantra Mandal, West Godavari District.
8. K. Gopala Krishnam Raju, S/o Sita Rama Raju Aged. 64 Years Occ. Cultivation, D.No.2-59, near Muthyalamma Temple, Nelamuru, Penumantra Mandal, West Godavari District.
9. K. Sita Rama Raju, , S/O Rama Mohan Raju Aged. 39 Years Occ. Cultivation, D.No. 1-54, Raja Veedhi, Nelamuru, Penumantra Mandal, West Godavari District.
10. K. Rama Mohan Raju, S/o Sita Rama Raju Aged 50 Years Occ. Cultivation, D.No. 1-54, 1st Ward, V.M. Street, Nelamuru, Penumantra Mandal, West Godavari District.

...Petitioner
(Petitioner in WP 15715 OF 2023
on the file of High Court)

AND

1. The State of Andhra Pradesh, Rep. by its Principal Secretary Animal Husbandry Dairy Development and Fisheries Department, Secretariat, Velagapudi, Amaravathi, Thullur Mandal, Guntur District.
2. The Commissioner and Director, Department of Fisheries Government of Andhra Pradesh at Bandar Road, Poranki, Vijayawada, Krishna District.
3. The District Level Implementation Committee, For Registration of Aquaculture DLIC West Godavari District at Bhimavaram Rep.by its Chairman-cum-District Collector West Godavari District at Bhimavaram.

4. The Joint Director of Fisheries, West Godavari District-cum- Member convener of the District Level Implementation Committee For Registration of Aquaculture (DLIC) West Godavari District, Bhimavaram.
5. The District Fisheries Officer, West Godavari District, Bhimavaram
6. The Mandal Level Committee, Fresh Water Aquaculture, Veeravasaram Mandal Rep.by its Chairman-cum-Tahsildar Veeravasaram Mandal, West Godavari District.
7. Aquaculture Inspector, Veeravasaram Mandal, West Godavari District.
8. Fisheries Development Officer and Convener Mandal Level Committee, Fresh Water Aquaculture, Veeravasaram Veeravasaram Mandal, West Godavari District.
9. Yarakaraju Subha Raju, S/o Ranga Raju, age not known, R/o. Nelamuru Village, Penumantra Mandal, West Godavari District.

...Respondents
(Respondents in-do-)

Counsel for the Petitioners :

M/s INDUS LAW FIRM

Counsel for the Respondents :

GP FOR FISHERIES

Petition under Section 151 CPC is filed praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to direct the respondents not to disturb the peaceful possession and enjoyment of the petitioner's aquaculture farms in Sy.No.2-2, 5-2 to an extent of Ac.4.14 cents, Sy.No.7-2 to an extent of Ac.1.04 cents, Sy.No.9/1B, 9/1C, 9/1D, 9/1E to an extent of Ac.1.80 cents, Sy.No.6 to an extent of Ac.1.8 cents, Sy.No.112/1 to an extent of Ac.2.69 cents, Sy.No.6-1 to an extent of Ac.0.4 cents, Sy.No.115/1 to an extent of Ac.1.23 cents, Sy.No.2-1 to an extent of Ac.1.44 cents situated, Sy.No.7-3A, 8-2B, 7-3 to an extent of Ac.1.80 cents, Sy.No.11/2, 11/2A, 11/2B, 11/3, 11/1, 11/4C-1 to an extent of Ac.0.98 cents situated at Nelamuru Penumantra Mandal, West Godavari District in any manner including the demolition by suspending the Proceedings vide Proc.No. 232/B/2023 dated 18-05-2023 of 5th Respondent, pending disposal of WP No.15715 of 2023, on the file of the High Court.

The court while directing issue of notice to the Respondents herein to show cause as to why this application should not be complied with, made the following order.(The receipt of this order will be deemed to be the receipt of notice in the case).

ORDER:

"Heard learned counsel for the petitioners and learned Government Pleader for the respondents.

Learned counsel for the petitioners submits that the present impugned proceedings vide Proc.No.232/B/2023, dated 18.05.2023 issued by the respondent No.5 herein is illegal as the respondent No.5 is not the competent authority to issue the same pursuant to the notice dated 18.03.2023.

He further submits that Section 26 of Regulation of Aquaculture and Aquaculture Business Operation contemplates the authorities under obligation to follow due procedure and to observe the principles of natural justice while issuing the present impugned proceedings but in the case in hand, the respondents have not observed the principles of natural justice and straight away issued the impugned proceedings for removal and closure of the aqua culture farm. He also contends that the present impugned proceedings dated 18.05.2023 were issued by the respondent No.5 who has no jurisdiction to issue the proceedings unless he was empowered by the Aqua Culture Controller, admittedly there is no such prior empowerment by the Controller as required under Regulation 19 of Regulations. In view of the non observation of principles of natural justice and issued impugned proceedings without jurisdiction, the petitioner is entitled for interim suspension of the impugned proceedings, dated 18.05.2023.

On the other hand, learned Government Pleader submits that the Regulation 35 contemplates statutory alternative remedy by way of appeal to the Aqua Culture Controller against the present impugned proceedings. But, without availing such alternative remedy, the petitioners directly approached this Hon'ble Court under Article 226 of Constitution of India is unwarranted and liable to be rejected. As such this present writ petition is not maintainable.

Considering the submissions of both the counsels and on perusal of the material available on record, *prima facie*, this Court finds that it is a settled principle of law that non observation of principles of natural justice by the authorities while exercising their power is fatal and the citizens cannot be driven to the alternative remedy. This Court has ample power to exercise its jurisdiction under the Article 226 of the Constitution of India when there is a violation of principles of natural justice.

It is also settled principle of law once there is an order passed by an authority without having jurisdiction, the alternative remedy is not a bar for exercising its jurisdiction under the Article 226 of the Constitution of India. Having

perused the impugned proceedings dated 18.05.2023, which suffers from non observation of principles of natural justice as contemplated under Regulation 26 and also without jurisdiction as contemplated under Regulation 19.

In view of the aforesaid discussion, there shall be an interim suspension of the impugned proceedings vide Proc.No.232/B/2023, dated 18.05.2023.

Post on 25.07.2023 for filing counter."

//TRUE COPY//

Sd/- S. SRINIVASA PRASAD
ASSISTANT REGISTRAR

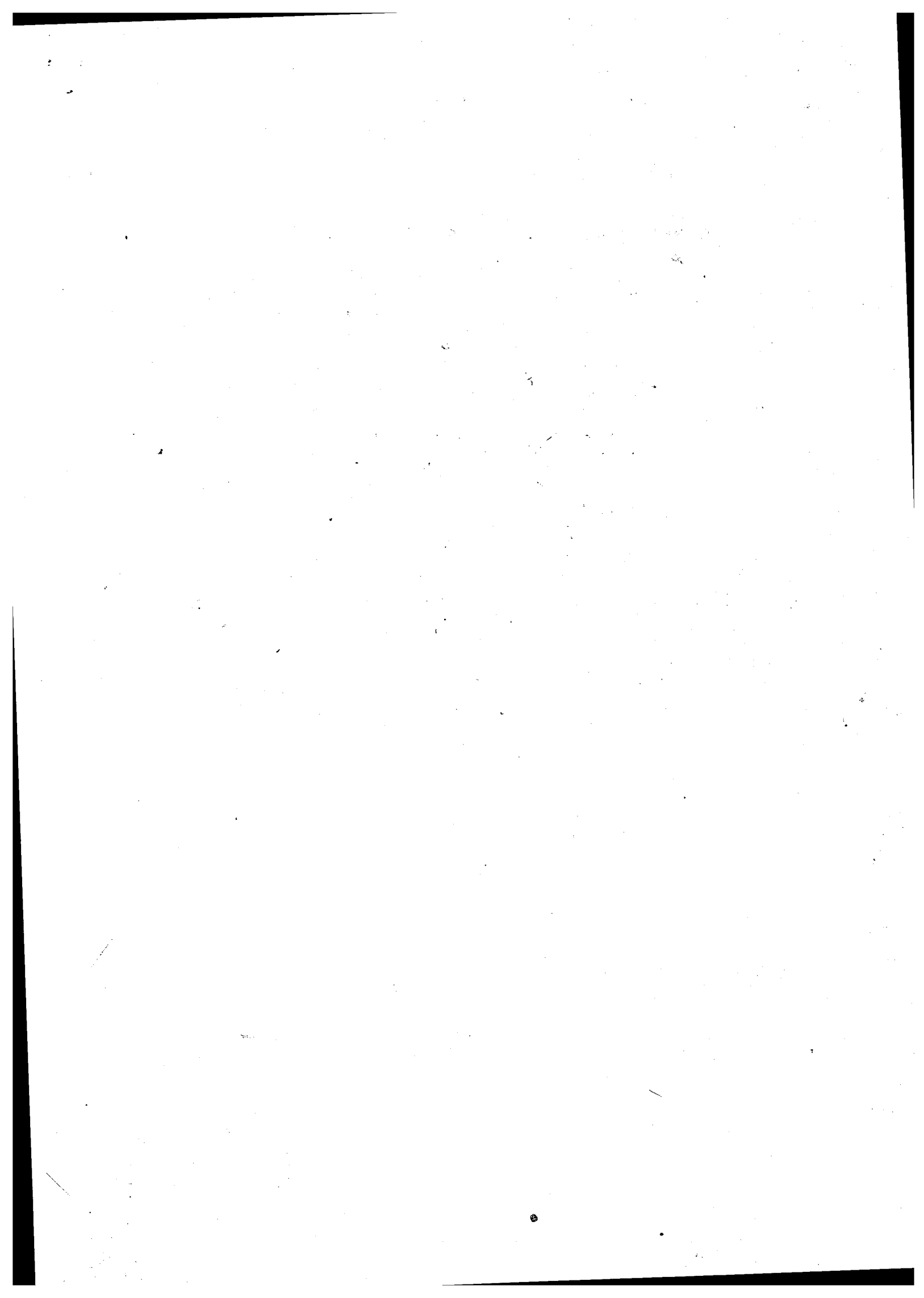
15/23

SECTION OFFICER

To,

1. The Principal Secretary Animal Husbandry Dairy Development and Fisheries Department, Secretariat, Velagapudi, Amaravathi, Thullur Mandal, Guntur District.
2. The Commissioner and Director, Department of Fisheries Government of Andhra Pradesh at Bandar Road, Poranki, Vijayawada, Krishna District.
3. The District Level Implementation Committee, For Registration of Aquaculture DLIC West Godavari District at Bhimavaram Rep.by its Chairman-cum-District Collector West Godavari District at Bhimavaram.
4. The Joint Director of Fisheries, West Godavari District-cum- Member convener of the District Level Implementation Committee For Registration of Aquaculture (DLIC) West Godavari District, Bhimavaram.
5. The District Fisheries Officer, West Godavari District, Bhimavaram
6. The Chairman-cum-Tahsildar, Mandal Level Committee, Fresh Water Aquaculture, Veeravasaram Mandal Veeravasaram Mandal, West Godavari District.
7. The Aquaculture Inspector, Veeravasaram Mandal, West Godavari District.
8. The Fishies Development Officer and Convener Mandal Level Committee, Fresh Water Aquaculture, Veeravasaram Veeravasaram Mandal, West Godavari District.
9. Yarakaraju Subha Raju, S/o Ranga Raju, R/o. Nelamuru Village, Penumantra Mandal, West Godavari District. (Addressee Nos.1 to 9 By RPAD)
10. One CC to M/s Indus Law Firm, Advocate [OPUC]
11. Two CCs to GP for Fisheries, High Court of Andhra Pradesh. [OUT]
12. One spare copy

MM



HIGH COURT

NVJ

DATED:04/07/2023

NOTE: POST ON 25.07.2023 FOR FILING COUNTER

ORDER

IA No. 1 OF 2023
IN
WP NO: 15715 OF 2023

INTERIM SUSPENSION

