

HON'BLE SRI JUSTICE D.V.S.S.SOMAYAJULU

W.P.No.2644 of 2022

ORDER :

Heard the learned counsel for the petitioners and the learned Government Pleader for Revenue appearing for the respondents.

The primary contention raised by the learned counsel for the petitioners is that the application for mutation of names of a land, which is said to have been purchased by the petitioners, has been rejected without following the mandatory procedure under the Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 (for short 'the Act'). In particular, the learned counsel for the petitioners relies upon the Section 5(3) of the Act and argues that before any order is passed, the petitioner should have been put on notice, their contentions should have been heard and thereafter only the impugned order should be passed. Apart from that he also points out that the order, dated 20.12.2020 is never communicated to them till 14.12.2021. Some other legal and factual issues are also raised.

Learned Government Pleader for Revenue, on the other hand, justifies the factual position that is stated in the order and contends that no further orders are warranted and at the best the petitioners shall have to file an appeal as mentioned in the order dated 22.12.2020 itself. He therefore contends that no order needs to be passed in this matter.

This Court, after considering the submissions made and in particular opines that the legal submissions made by the learned counsel for the petitioners insofar as they relate to Section 5 of the Act, are correct. The Act itself mandates a notice being issued and thereafter passing an order after giving an opportunity to the parties concerned. Rule 18(3) (b) of the Andhra Pradesh Rights in Land and Pattadar Pass Books Rules, 1989, which is extracted in the writ affidavit is also to the same effect. A *prima facie* reading of the order shows that no notice was issued to the petitioners. Only two documents have been referred to in the order i.e., the mutation application made by the petitioner No.3 and the enquiry report of the Mandal Revenue Inspector. Beyond this there is no reference to any notice being issued etc., The report of the Mandal Revenue Inspector, which is relied upon is not in the knowledge of the petitioners as per them.

Keeping this writ petition pending is therefore is not called for. Once there is a failure of rules of natural justice, even if there is an alternative remedy, a writ is maintainable. The law is well settled. Hence, the impugned order, dated 22.12.2020 as communicated by the endorsement dated 14.12.2021 is hereby set aside. The 3rd respondent is directed to conduct a *de novo* enquiry into the application filed by the petitioners, strictly in compliance with the provisions of Section 5 of the Act and Rules there under. The entire exercise should be completed within a period of two (2) months from the date of receipt of a copy of this order. It is needless to say after complying with the procedure,

an order can be passed on merits of the matter without being influenced by the fact that an order is passed by the High Court. A reasoned order should thereafter be passed and necessarily communicated to the petitioners.

With the above observation, this writ petition is disposed of. No costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition stand closed.

D.V.S.S.SOMAYAJULU,J

Date : 03.2.2022
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Dated: 03.02.2022

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