

Gram Panchayat Vs. Engineer-in-chief, Irrigation and Command Area Development Dept. and ors.

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Court : Andhra Pradesh

Decided On : Feb-22-2002

Reported in : 2002(5)ALT575

Judge : P.S. Narayana, J.

Acts : Andhra Pradesh Zila Panchayat Act

Appeal No. : W.P. No. 8038 of 1999

Appellant : Gram Panchayat

Respondent : Engineer-in-chief, Irrigation and Command Area Development Dept. and ors.

Advocate for Def. : G.P. for Respondent Nos. 1 to 4 and ;G.V.L.N. Murthy, Adv. for Respondent Nos. 5 to 8

Advocate for Pet/Ap. : P. Raghavendra Reddy, Adv.

Judgement :

ORDER

P.S. Narayana, J.

1. The Gram Panchayat, Pondugula, Mylavaram Mandal, Krishna District, is the writ petitioner. The Writ Petition is filed for issuance of an order or direction more in the nature of Writ of Mandamus declaring Memo No. SI/MC/188-Spl, dated 27-3-1999 issued by 2nd respondent and consequential Divisional proceedings No. AB/A1/296-M, dated 30-3-1999 issued by 3rd respondent as illegal, arbitrary, unjust, without jurisdiction and unconstitutional and contrary to the Rules and consequently direct the respondents to grant leasehold rights of Mango trees, numbering 320 in the foreshore of Chavitivagu tank of Pondugula village Mylavaram Mandal, Krishna District to the petitioner-Gram Panchayat, as is being granted earlier in terms of A.P.P.W.D. Code Para 344, r/w. Rule 1-A and B under Appendix thereunder and pass such other suitable orders.

2. Though the pleadings of the parties are lengthy, the question involved in the Writ Petition is short and simple. However, for the purpose of disposal of this Writ Petition, the facts in nut shell are as follows:

It is stated that the petitioner-Gram Panchayat had been enjoying the leasehold rights of the Mango trees in the foreshore of Chavitivagu tank of Pondugula village, Mylavaram Mandal for the last more than 17 years and after the trees are leased out to the Gram Panchayat, the Gram Panchayat will put a public auction and at the time of conducting public auction, the matter will be referred to the Divisional Panchayat Officer, Vijayawada to fix the upset price and after fixing the upset price the Extension Officer (Panchayats), Mylavaram will conduct the public auction and the same will be allotted to the highest bidders. The procedure to be followed in this regard also had been specified in detail. It is also stated that the Gram Panchayat had passed resolution for the year 1996-97 for allotment of leasehold rights of the said trees requesting the 3rd respondent through 4th respondent, but no reply was received. But however, the Gram Panchayat came to know that the leasehold rights were given to some third parties by proceedings dated 17-12-1997 by 3rd respondent for a period of one year. It is also stated that though the lease in favour of the Gram Panchayat had not expired which was granted earlier, by proceedings dated 29-4-1997, the Gram Panchayat was not informed about the granting of leasehold rights to the third parties contrary to the Rules. W.P.No. 9109/97, dated 1-5-1997 and the orders made therein also had

been referred to and it is stated that the orders passed by this Honourable Court is to consider the representation dated 21-4-1997 for leasing out the mango garden. Basing on the said orders passed by this Court, the plea of third parties had been rejected and when a legal notice was sent by the third parties, who are the petitioners in W.P.No. 9107/97, a detailed reply was given by the 3rd respondent vide letter dated 1-7-1997 stating that the third parties are not entitled in view of the provisions made under Para 344 of A.P.P.W.D. Code and as per the instructions of the Chief Engineer, Minor Irrigation, A.P., Hyderabad, vide his letter dated 18-7-1986. Subsequent thereto, another representation was made by the third parties on 4-12-1997 to the respondents herein and by quoting W.P.No. 9107/97, the leasehold rights were granted to them for a period of one year contrary to the Rules. It is also stated that the Gram Panchayat had already requested the respondents, vide Resolution No. 24, dated 29-8-1997, but without granting leasehold rights to the Gram Panchayat, the same had been allotted to the third parties without any notice to the Gram Panchayat. It is also stated that the writ petitioner-Gram Panchayat had requested the respondents vide letter No. 1/98, dated 1-1-1998 for grant of leasehold rights and no action had been taken and the Gram Panchayat again passed Resolution No. 33, dated 21-7-1998 requesting the respondents herein for grant of leasehold rights of the trees to the Gram Panchayat and the same is sent to the respondents. Then the 4th respondent served letter No. 17-M, dated 3-2-1998 on the petitioner-Gram Panchayat on 29-8-1998 stating that the leasehold rights have already been granted to the public for the year 1997-98 in pursuance of the Court orders. It is stated that the 4th respondent has no power or authority or jurisdiction to pass the said orders and the 3rd respondent alone is the competent authority to grant leasehold rights to any person including the petitioner- Gram Panchayat. It is also stated that the petitioner-Gram Panchayat had been utilizing the income derived from the trees for the maintenance of roads, street lights, digging of borewells, maintenance of drainage and other developmental works. It is also stated that the respondents without any authority of law had granted the leasehold rights to the third parties for the year 1998 by proceedings dated 17-12-1997 and for the first time the petitioner-Gram Panchayat was informed by letter No. 17M, dated 3-2-1998 which was served on 29-8-1988, after the requisition made by the Gram

Panchayat on 21-7-1998. It is also stated that the writ petitioner filed W.P. No. 24877/98 in the Honourable Court for a direction to grant leasehold rights of the mango trees numbering 320 in the foreshore of Chavitivagu tank of Pondugula village, Mylavaram Mandal to the petitioner-Gram Panchayat as was being granted earlier in terms of A.P.P.W.D. Code Para 344 r/w Rule 1-A and 1-B under Appendix thereunder and initially interim directions were granted by this Honourable Court directing the respondents to consider the case of the petitioner-Gram Panchayat for grant of leasehold rights of the mango trees numbering 300 aforesaid, and subsequent there to vacate stay petition was filed by the Department as well as the respondents 5 to 8 herein and the W.P.No. 24877/98 was finally heard and disposed of with a direction to the 2nd respondent herein to take appropriate decision in the light of the Government orders and also the relevant Public Works Code and further directed to communicate the decision to be so taken to the parties concerned. Basing on the orders passed by this Court, the petitioner-Gram Panchayat filed representation to the Superintending Engineer on 25-3-1999, but what orders the Superintending Engineer had passed had not been received and surprisingly the respondents 1 and 3 herein have sent the order vide Divisional Panchayat Officer proceedings No. AB/A1 / 296-M, dated 31-3-1999 which was received by the petitioner-Gram Panchayat on 3-4-1999 granting leasehold rights to Mango garden in favour of respondents 5 to 8, and the impugned order specified supra had been challenged raising several grounds.

3. Counter-affidavits were filed by respondents 1 to 4 and also by respondents 5 to 8. In the counter-affidavit filed by respondents 1 to 4, it was stated that the lease of usufruct of mango trees in the foreshore of Chavitivagu tank of Pondugula village, Mylavaram Mandal, Krishna District was given to the petitioner-Gram Panchayat from 1982 to 1997, for a period of 15 years and not for more than 17 years and the last lease was given by the 3rd respondent by proceedings dated 29-4-1997 for the lease of usufruct of 320 mango trees situated in the foreshore of the said tank to the petitioner-Gram Panchayat for one year i.e., 1997 only, subject to payment of lease amount of Rs. 28,750/- + sales tax at 7.7%. The said period of lease expired and subsequent thereto the lease was given to the petitioner from 1982 to 1996 and 1997 also and the petitioner used to pay the lease amount belatedly every year after number of reminders. It is also stated that as per Para 344 of A.P.

Public Works Department Code, the Executive Engineers are authorized to grant lease without auction of usufruct of trees, grass etc., to the Village Panchayat and other bidders as specified in Rules in Appendix X. Such leases will be held in public auction only when no grant of lease under Rules A and B of the said Rules have been granted. As per Rule 1-A (i)(a), the Executive Engineers are authorized to grant to Village Panchayat, the lease of grass, usufruct of trees etc., on Public Works Department canals, channels, drains and tank porambokes and flood banks subject to the condition that the Panchayats shall pay annually to the Government a sum equal to average annual revenue realized during the preceding five years. The Government had issued orders in G.O.Ms. No. 62, Irrigation (Projects Wing) Department, dated 29-3-1985 to lease out the usufruct of Mango trees in the lands acquired for N.S. Project Left Canals to the land owners at 50% more than the average auctions amount during the preceding two years for a period of one year for the ensuing season i.e., 1985. The Government had also extended the orders issued in G.O.Ms. No. 62, Irrigation (Projects Wing) Department, dated 29-3-1985 to all the areas under N.S. project in G.O.Ms. No. 59, Irrigation & CAD (P.W.) Department, dated 11-3-1988 and the lease amount should be at 15% more than what was realized in the previous year. The Superintending Engineer, N.S. Left Canals Circle, Nuzvidu had fixed the lease amount for the year 1997 based on the orders passed by the Government in G.O.Ms. No. 59, Irrigation Department, dated 11-3-1988 as follows:

Lease rate for 1996: Rs. 189-00 Add. 15% extra: Rs. 28-35Rs. 217-35 or Rs. 217 per each tree.

This rate applies for the whole of N.S. Project. The last lease was given to the petitioner at Rs. 28,750/- for 320 Mango Trees in 1997. When the rate in N.S. Project area was Rs. 217/- per tree, the lease was given to the petitioner at a lower rate of Rs. 127-16 per tree per year. Respondents 5 to 8 made representations to the Superintending Engineer, Irrigation Circle, Vijayawada and Executive Engineer, Special Division, Vijayawada on 4-4-1997 to lease out the usufruct of mango trees in the foreshore of Chavitivagu tank at Pondugula at the rate prescribed by the Government in G.O.Ms. No. 62, Irrigation (Projects Wing) Department, dated 29-3-1985 and G.O.Ms. No. 59, Irrigation & CAD (Project Wing

AR) Department, dated 11-3-1988 as they were the land owners before taking possession of the land for formation of Chavativagu tank by the Irrigation Department. They have also made representations to the District Collector, Krishna to consider their request to lease out the mango trees. Respondents 5 to 8 filed W.P. No. 9107/97 in this Honourable Court in this regard and this Honourable Court by the order dated 1-3-1997 directed the 3rd respondent to consider the applications of the petitioners therein for leasing out the mango garden. By the time the order was received the lease of the mango garden for the year 1997 was renewed in favour of the petitioner-Panchayat by the 3rd respondent vide proceedings dated 20-4-1997 for a period of one year i.e., 1997 only at the lumpsum amount of Rs. 28,750 + S.T. at 7% i.e., Rs. 28,750/- + Rs. 2,214/-, totalling Rs. 30,964/-. Hence the leasing of mango trees in favour of former land owners could not be considered. Thereafter the lease for the year 1998 was given to the former land owners at the highest rate as fixed in G.O.Ms. No. 59. The allegation of the petitioner that the lease for the year 1997 in their favour had not expired is not correct as the lease expired as soon as the mango season was over i.e., by June 1997. As such it is not necessary to inform the petitioner about the lease having been given to the former land owners. It is also stated that in pursuance of the directions issued in W.P. No. 9109/97 and also in view of the G.Os., the lease hold rights of the mango trees had been granted to the former land owners -respondents 5 to 8 herein. As per G.O.Ms. No. 62, the said trees are to be leased out only to the persons who previously owned the lands in question. The rates of lease have been fixed as specified in G.O. Ms. No. 59 and the amounts due were paid in advance by the respondents 5 to 8. It is also contended that the petitioner-Panchayat was in the habit of paying the lease amounts belatedly. It is also stated that the petitioner-Panchayat filed W.P. No. 25877/98 for the very same relief as sought in the present Writ Petition and an order dated 3-3-1999 was passed directing the 2nd respondent to take a decision regarding leasing out the usufruct of mango trees in the foreshore of Chavativagu tank at Pondugula village for the year 1999 based on the orders passed by the Government in G.O.Ms. No. 62, Irrigation (PW) Department, dated 29-3-1985 and G.O.Ms. No. 59, Irrigation (PW) Department, dated 11-3-1988. Pursuant to the orders of this Honourable Court, the 2nd respondent directed the 3rd respondent

to lease out the mango garden in favour of the former land owners i.e., respondents 5 to 8 for the year 1999 and accordingly the 3rd respondent had accorded sanction by proceedings dated 30-3-1999 to lease out the said mango garden to the respondents 5 to 8 for an amount of Rs. 77,050/- for the year 1999. It is also stated that G.O.Ms. No. 62, Irrigation (PW) Department, dated 29-3-1985 was issued instructing to lease out the usufruct of the mango trees in the lands acquired for N.S. Project Left Canals to the land owners at 50% more than the average auctioned amount during the preceding two years for a period of one year for the ensuing season i.e., 1985. The Government had also extended the orders issued in G.O.Ms. No. 62, Irrigation (PW) Department, dated 29-3-1985 to all the areas under N.S. Project and instructed that the lease amount should be at 15% more than what was realized in the previous year in G.O.Ms. No. 59, Irrigation (PW) Department, dt. 11-3-1988. It is also stated that these orders are applicable even to the former land owners of Chavativagu tank. Certain other details also had been specified in this regard.

4. Respondents 5 to 8 had filed counter-affidavit taking a stand substantially supporting the stand taken by the Official respondents and had ultimately stated that they are entitled to the benefits of the aforesaid G.Os.

5. After hearing the parties at length, at the first instance a request was made by Sri Raghavender Reddy, the learned counsel representing the writ petitioner for the purpose of impleading the District Collector, Krishna District and the Mandal Revenue Officer, Mylavaram Mandal, Krishna District as respondents 9 and 10 respectively, in the present writ petition stating that in the facts and circumstances of the case, the applicability or non-applicability of G.O.Ms. Nos. 62 and 59, is well within the knowledge of these authorities and hence it is necessary to implead these parties and accordingly W.P.M.P. No. 4191/2002 was filed to implead the District Collector, Krishna District and the Mandal Revenue Officer, Mylavaram Mandal, Krishna District. The said application was opposed by the learned Assistant Government Pleader Sri Raji Reddy, representing the Irrigation Department and also Sri G.V.L.N. Murthy, the learned counsel representing the other respondents in the writ petition. It was strenuously contended by the learned counsel representing the respondents that in the light of the specific stand taken

by them in their respective counter-affidavits, the impleading of these parties will serve no purpose and further it was explained that these parties are not necessary parties to the present writ petition.

6. Apart from this aspect of the matter, Sri Raghavender Reddy, the learned counsel representing the writ petitioner-Gram Panchayat had stated that the petitioner is a Gram Panchayat, a local body, and by granting leasehold rights in favour of the Gram Panchayat, the general public of the Gram Panchayat will be benefited. The learned counsel also had drawn my attention that for several years, these trees were being leased out in favour of the Gram Panchayat only and the Gram Panchayat had been deriving some income out of the same and had been utilizing the said income for the purpose of certain developmental activities and hence virtually public interest is involved in the matter. The learned counsel also further contended that in view of Para 344 of the A.P. Public Works Department Code and also Rule 1-A of the Rules relating to the lease of grass, usufruct of trees on Public Works Department canals, channels, drains and borewells etc., the Gram Panchayat has got preferential right and hence since the interest of the Gram Panchayat is involved, the action of the Official respondents contrary to these provisions, definitely cannot be sustained. The learned counsel also had drawn my attention to the orders passed in W.P. No. 34877/98 and had submitted that the said orders also had not been complied with. It was also further contended that the unofficial respondents are not entitled to the benefits of the G.Os. at all and no proper verification had been done in this matter and when these parties are private parties fighting for certain benefits under the G.O., the claim of the Gram Panchayat under the A.P. Public Works Department Code, hereinafter in short referred to as 'Code', should be given preference.

7. Sri Raji Reddy, the learned Assistant Government Pleader representing the Irrigation Department had raised an objection stating that the Code is only a Code, which deals with only executive instructions to the Departmental Officials and the Code as such has no statutory force and hence the writ petition filed by the petitioner-Gram Panchayat to enforce a legal right on the strength of such non-statutory instructions is not maintainable. The learned counsel also had contended that specific stand had been taken in this regard in the counter-affidavit. It is also

contended that the revenue authorities are not concerned with this Department and it is only the authorities concerned with the Irrigation, who are expected to take a decision in this regard. The learned counsel also had drawn my attention to the impugned proceedings and had submitted that the directions in W.P. No. 24877/98 in fact had been referred to and a decision was taken in this regard and hence the instructions in the prior writ petition had been well complied with. The learned counsel also had placed reliance on J.R. Raghupathy v. State of A.P., : AIR 1981 SC1681 G.J. Fernandez v. The State of Mysore and Ors., : [1967]3SCR636 and also another decision in Aare Village Gram Panchayat, Chittoor District v. President, Aare Village Water Users Association, Aare Village and Ors. : 2001(2)ALT174 .

8. Sri G.V.L.N. Murthy, the learned counsel representing the unofficial respondents had strenuously contended that these parties are entitled to the benefits of G.Os. which had been well explained in the counter-affidavit filed by the Official respondents and on verification only, the applicability of the G.Os. had been considered and hence there is no question of stating that these G.Os. are inapplicable in the case of these parties. The learned counsel had taken me through the details of the counter-affidavit filed by respondents 5 to 8, commencing from paragraphs 3 to 11, and had stated that there is no enforceable right in favour of the writ petitioner and hence the remedy by way of Writ Petition is a misconceived remedy.

9. Heard the counsel on record and also perused the material available on record.

10. On 27-3-1999, in the impugned Memo No. SI/MC/188-Spl. dated 27-3-1999, it was specified as follows:

'In the light of the Government orders contained in G.O.Ms.No. 62, dated 29-3-'85 and G.O.Ms.No. 59, dt. 11-3-'88 and based on the material available on record, the Executive Engineer Special Division, Vijayawada is directed to grant the leasehold right of 320 Mango trees in the foreshore of Chavitivagu tank of Pondugula village to the former land owners for the year 1999 as they are land owners before taking possession of their land for formation of tank by the Irrigation Department.

Necessary orders may be communicated to the parties immediately as per the orders of A.P., High Court dated 3-3-'99.'

Even in the orders dated 30-3-1999 issued by the 3rd respondent it was stated that in the light of the Government Orders contained in G.O.Ms.No. 62 dated 29-3-1985 and G.O.Ms.No. 59 dated 11-3-1988 and in view of W.P.No. 24877/98 of A.P. High Court orders dated 3-3-1999 as per the directions of the Superintending Engineer, Irrigation Circle, Vijayawada in Memo No. S1/Mc/ 188 Spl., dated 27-3-1999, the renewal of sanction of lease of Mango garden is hereby accorded in favour of Smt. Bukya Abbulu and others of Pondugala (V), Mylavaram Mandal for right of enjoying the usufruct of Mango trees situated in the foreshore of Chavitivagu Tank of Pondugala (V) for the year 1999 and the details had been specified. This decision taken by the Irrigation Department is assailed by the writ petitioner mainly on the ground that the Irrigation Department had totally ignored the preferential right given to the petitioner-Gram Panchayat under the provisions of the Code. It is also brought to my notice that certain directions had been given in W.P.M.P. Nos. 8539 and 8196 of 2001, and the said directions are as follows:

'There shall be interim direction to the respondents 1 to 4 to lease the mango crop to respondents 5 to 8 as per the terms and conditions to be prescribed by the 3rd respondent.'

Be that as it may, as already stated supra, the writ petitioner to maintain a Writ of Mandamus should be able to show an enforceable legal right and no doubt strong reliance is placed by the learned counsel for the writ petitioner on Para 344 of the Code. Para 344 of the said Code reads as follows:

'Except in cases where the sale of fishery rights in inland waters specially entrusted to the Public Works Department, the fisheries in all public inland waters shall be disposed of by the Revenue Department under B.S.O. No. 211. It is the duty of the Public Works Department Divisional Officers to see that the sale of miscellaneous properties such as usufruct of trees, grass etc., are made periodically to the best advantage of the Government. The sales should be made by the public auction after the publicity has been given.'

It is also the duty of the Executive Officers to arrange for the sale or proper utilization on works of old and full grown fuel and timber trees on lands in-charge of the Public Works Department.

Executive Engineers are however authorized to grant without auction lease of usufruct of trees, grass, etc., to the village panchayats and other bodies as specified in the rules in Appendix 'X'. Such lease may be sold in public auction only after Rule 1-A and B of the said rules have been invoked and no grant of lease can be made thereunder.'

In the above para 344 of the Code, It is pertinent to note the words '..Executive Engineers are however authorized to grant without auction lease of usufruct of trees, grass, etc., to the village panchayats and other bodies as specified in the rules in Appendix 'X'. It is clear from the said provision that it is only discretionary. Apart from this aspect of the matter, the Code is intended to define the scope of the administrative and executive functions of the officers of the Irrigation, Drainage, Roads and Buildings, Public Health and Panchayat Raj Engineering Departments. No doubt Rule 1-A of the Rules relating to lease of grass, usufruct of trees, etc., on Public Works Department canal, channel, drain, porambokes, etc., dealing with concession to village panchayats, specifies as follows:

(i) (a) Executive Engineers are authorized to grant to village panchayats constituted under the A.P.Z.P. Act, the lease of grass, usufruct of trees etc., on Public Works Department canal, channel, drain and tank porambokes and flood banks, subject to the conditions mentioned below: Panchayats shall be preferred even if there are higher bids from other persons or bodies.

(1) The panchayats shall pay annually to the Government a sum equal to the average annual revenue realized during the preceding five years.

(2) The panchayats shall conform to the usual conditions imposed on individual lessees. The Executive Engineer concerned shall have the power to cancel the lease of grass etc., flood banks, if, in his opinion, any damage is caused and the panchayat is responsible for it.

(b) Executive Engineers shall furnish to the panchayats a list of all leases which are open to the panchayats in their respective village limits in the form annexed to this appendix, shall add to the list new items of lease, if any, as and when they arise and intimate the addition to the panchayats so that the panchayats may take up the lease, if they so desire and remit the lease amount by the date fixed in each case. The areas included in the lease may not necessarily cover all the Public Works Department lands in Panchayat limits and the areas not mentioned in the schedule or specifically excluded shall not be included in the lease. They will be usually of the nature of lock, inspection bungalows or office compound or of quarters of establishment. The panchayats should also be told that unless they offer to take up the lease by the date specified for the removal of the respective leases and remit the lease amounts by that date, it will be assumed that the panchayats do not wish to take up the lease and action will be taken accordingly.

(ii) The panchayats will be allowed to appropriate the income from withered and windfallen trees on canal and drain porambores (included in the areas leased) the right to cut grass and to enjoy the usufruct of trees on land which has been leased to them. Before such trees are removed by the panchayats the prior approval of the Sub-Divisional Officer should invariably be obtained. Trees wilfully damaged will not be included in this concession'.

On the strength of these Provisions, the petitioner-Gram Panchayat is claiming a preferential right. The Apex Court while dealing with a similar question with regard to Mysore Public Works Department in the decision referred (2) supra held that Mysore Public Works Department Code and the instructions contained in the Code are mere administrative instructions and not statutory rules and no writ lies for disobedience to the rules at the instance of member of public. No doubt reliance was placed on decisions referred (1) and (3) supra.

11. As can be seen from the very scheme of the Code, the Code is a compilation of the administrative and executive instructions to the Departmental Officials and it is needless to say that these provisions will have no statutory force. When the petitioner approaches writ court seeking a Writ of Mandamus, the petitioner has to satisfy the writ Court relating to an enforceable legal right so as to get the relief.

The right claimed by the writ petitioner-Gram Panchayat is a right based on the provisions of the Code, which are non-statutory in nature. Even otherwise, the wording of the provisions clearly go to show that they are more discretionary in nature and it cannot be said that they are in a mandatory form. Suffice for this Court to say that a Writ of Mandamus does not lie to enforce a legal right alleged to have been based on the strength of such non-statutory instructions. Adverting to the other contentions relating to the applicability of the G.Os. to respondents 5 to 8, it is for the Department to consider and no doubt the learned counsel for the writ petitioner had seriously contended that as far as the Irrigation Department is concerned, in the light of the peculiar facts, the Department is not acting impartially. It is needless to say that whether the Department concerned is Irrigation Department or Revenue Department, as the case may be, are all the wings of same Government and ultimately while taking a decision, the Government is expected to take the decision in the interest of having maximum advantage or benefit to the public exchequer and this view always should be kept in mind. I do hope and trust that even respondents 1 to 4 will take this observation of this Court in proper perspective and take decision whether it is desirable to proceed with public auction in the facts and circumstances of the case to get better benefit for the public exchequer or to make allotments as were being made previously in pursuance of the said G.Os. Nothing more need be stated at this juncture in this regard. In the light of the above observations, I do not see any merit in the Writ Petition. The Writ Petition is accordingly dismissed. As far as impleading application i.e., W.P.M.P. No. 4191/2002 is concerned, in the light of the observations made by me that the wisdom will prevail over the Officials of the Irrigation Department itself in taking a decision relating to the public auction or otherwise, I do not see any reason to allow the application and the application is accordingly dismissed. Inasmuch as a local body had filed the Writ Petition, I do not make any order as to costs.