



IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)

[3329]

THURSDAY ,THE EIGHTH DAY OF AUGUST
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

WRIT PETITION NO: 11743/2024

Between:

GandhamSrinivasulu,

...PETITIONER

AND

The Union Of India and Others

...RESPONDENT(S)

Counsel for the Petitioner:

1.KALAVA SURESH KUMAR REDDY (SC FOR MC RAYAL REGION,
NELLORE)

Counsel for the Respondent(S):

1.GP FOR REVENUE

2.PILLIX LAW FIRM

3.GP FOR CIVIL SUPPLIES

4.G RAMA GOPAL

5.K SRINIVASA MURTHY (SC FOR HPCL)

6.

The Court made the following:

ORDER:-

1. This writ petition is filed claiming the following relief:

*“...to issue any writ, order or direction more particularly
one in the nature of Writ of Mandamus declaring the
proceedings No.P/SC/AP/14/4980 (P188382), dated*

26.07.2023 and consequential proceedings No.P/SC/AP/14/4980 (P188382), dated 24.04.2024 of the Respondent No.5 as illegal, arbitrary and violation of Article 21 of the Constitution of India and to consequently set aside the proceedings No.P/SC/AP/14/4980(P188382), dated 26.07.2023 and consequential proceedings No.P/SC/AP/14/4980 (P188382), dated 24.04.2024 and direct the Respondent No.5 to continue the explosive license and further direct the Corporation to supply the petroleum products in view of the letter of intent dated 06.06.2011 thereby permitting the petitioner to run the retail outlet and to pass such other order or orders...”

2. Heard the learned counsel for the petitioner and learned counsel for the Respondents.

3. Learned counsel for the petitioner submits that the petitioner herein is a retail dealer of Respondent No.10 / the Hindustan Petroleum Corporation Limited (HPCL), pursuant to his selection as a dealer by Respondent No.10 vide Letter of Intent dated 06.06.2011. Since then, he has been operating his retail outlet under the name and style of M/s. Sri Venkateswara Filling Station situated at Sy.No.242 of Padmavathipuram Village, Tirupati Rural Mandal, Tirupati District.

4. Learned counsel for the petitioner further submits that Respondent No.10 i.e. HPCL, has entered a Lease Agreement with Respondent Nos.13 and 14 in respect of vacate land situated at Sy.No.242, Srinivasapuram, Tiruchanur admeasuring to an extent of Ac.0.21 cents or 1005 sq.yards for a lease period of 15 years vide registered lease deed dated 01.05.2007. As per

the recitals of the lease deed, the term of lease is for a period of 15 years and renewable thereafter for a further period of 15 years. The admitted fact is the initial period of the lease is for 15 years i.e. from 01.05.2007 until 30.04.2022 and thereafter renewable for a further period of 15 years from 01.05.2022 onwards till 30.04.2037. While so, without issuing any notice and without providing any opportunity of hearing to the lessee of the premises in whose favour No Objection Certificate (NOC) was granted by the then District Collector / Respondent No.2 withdrawn/cancelled the subject NOC vide proceedings in Roc.C6/3096/2023, dated 31.05.2023. Challenging the said proceedings, the petitioner herein filed W.P.No.14220 of 2023 before this Court.

5. Learned counsel for the petitioner further submits that once the matter was sub judice before this Hon'ble Court vide W.P.No.14220 of 2023 and also a suit was filed for eviction bearing OS. No.71 of 2022 on the file of Hon'ble Senior Civil Judge, Tirupati. The Respondent No.4 herein being Head of Department cannot arbitrarily exceed his jurisdiction at instance of third parties. He further submits that Respondent No.5 had acted upon the complaint dated 22.04.2024 made by Respondent Nos.13 and 14 and withdrawn explosive licence granted in favour of the petitioner due to the complaint of third parties / Respondent Nos.13 and 14.

6. Learned counsel for the petitioner further submits that on 24.04.2024, the petitioner herein received a WhatsApp message from the Regional Sales Officer, who in turn forwarded the proceedings

No.P/SC/AP/14/4980(P188382), dated 24.04.2024, wherein the Respondent No.5 directed the Corporation immediately stop the operation of the subject outlet and informed that the current status of the subject outlet with dispenser reading and current stock. It is further stated that the subject outlet is continuing in violation of the Petroleum Act, 1934 and the Petroleum Rules, 2002. It is further advised to follow the procedure as laid down under Rule 153 of the Petroleum Rules, 2002.

7. Learned counsel for the petitioner further submits that this Court has directed the concerned authorities to permit the petitioner to operate the subject retail outlet, again Respondent No.5 issued the present impugned proceedings in consequence to his cancellation orders dated 26.07.2023 is nothing but abuse of process of law. Hence the writ petition.

8. On the other hand, learned counsel for the Respondents submits that the matter can be remanded to the original authority / Respondent No.3 for re-appreciation of the matter and for compliance of the principles of the natural justice in respect of Respondent No.10.

9. Having regard to the submissions made by both the counsels and on perusal of the material placed on record, it is observed that the impugned proceedings dated 31.05.2023 issued by Respondent No.3 is only at the instances of the Respondent Nos.13 and 14, who are the land lords of subject property of the outlet.

10. It is further observed that Respondent Nos.5 passed an order vide proceedings No.P/SC/AP/14/4980(P188382), dated 26.07.2023 in cancelling the explosive license granted in favour of Respondent No.10, in view of the cancellation / withdrawn of NOC issued by Respondent No.3, dated 31.05.2023 are liable to be suspended for the reason while passing the impugned proceedings by Respondent No.3, the principles of natural justice were not observed in respect of Respondent No.10, who is entitled for observance of such principles, the consequential proceedings issued by Respondent Nos.5 dated 26.07.2023 and 24.04.2024 are also liable to be set aside.

11. Accordingly, the writ petition is allowed-in-part and the impugned order issued by Respondent No.5 vide proceedings No.P/SC/AP/14/4980 (P188382), dated 26.07.2023 and the consequential proceedings No.P/SC/AP/14/4980(P188382), dated 24.04.2024 are hereby set aside. If the Respondents are intend to pass any further orders, the Respondents are at liberty to proceed further in accordance with the law by providing an opportunity of hearing to all the parties/stakeholders. There shall be no order as to costs.

Consequently, miscellaneous applications pending if any, shall stand closed.

JUSTICE VENKATESWARLU NIMMAGADDA

8th August, 2024
Knr

HON'BLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

WRIT PETITION No.11743 of 2024

8th August, 2024

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