

APHC010278752023



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: 14220/2023

Between:

Gandham Srinivasulu

...PETITIONER

AND

The State Of Ap and Others

...RESPONDENT(S)

Counsel for the Petitioner:

1. SURESH KUMAR REDDY KALAVA

Counsel for the Respondent(S):

1. M UMA DEVI (CENTRAL GOVT COUNSEL)

2. GP FOR REVENUE

3. PILLIX LAW FIRM

4. V R REDDY KOVVURI

5. GP FOR CIVIL SUPPLIES

The Court made the following:

ORDER:-

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

“...to issue a writ of Mandamus or any other appropriate writ or direction declaring the order of the Respondent No.2 issued in ROC No.C6/3096/2023, dated 31.05.2023 as illegal, arbitrary and one without jurisdiction and also in violation of principles of natural justice and consequently direct the Respondent Nos.3 to 6 to permit the petitioner to operate the retail outlet at Sy.No.242, Padmavathipuram, Tirupathi Rural Mandal, Chittoor District by suspending the order of the Respondent No.2 issued in ROC No.C6/3096/2023, dated 31.05.2023 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.6 / the Hindustan Petroleum Corporation Limited and he has been continuing the retail outlet since 2011, since the petitioner was selected as a dealer by Respondent No.6 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.6 has taken the property belonging to Respondent Nos.7 and 8 situated at Sy.No.242, Srinivasapuram, Tiruchanur admeasuring to an extent of Ac.0.21 cents or 1005 sq. yards on lease for a 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 renewal thereafter for a further period of 15 years. The initial period of the lease is for 15 years i.e. from 01.05.2007 until 30.04.2022 and is renewable for a further period of 15 years from 01.05.2022 onwards until 30.04.2037 upon on expiry of initial term. While so, without issuing any notice and without providing any opportunity of hearing to the lessee who is the lease holder of the premises in whose favour the No Objection Certificate (NOC) was granted by Respondent No.2 withdrawn/cancelled the subject NOC vide proceedings in Roc.C6/3096/2023, dated 31.05.2023.

5. Learned counsel for the petitioner further submits that the impugned proceedings issued by Respondent No.2 dated 31.05.2023 is contrary to the principles of natural justice and the Petroleum Rules, 2002 under which Respondent No.6 was issued NOC. Hence the writ petition.

6. On the other hand, learned Standing Counsel for Respondent No.6 submits that while passing the impugned proceedings by Respondent No.2 dated 31.03.2023, notices were issued to the petitioner who is a dealer but not to Respondent No.6 who is the original lessee and in whose favour the NOC was granted by the Respondent No.2. Therefore, the matter can be

remanded for compliance of the principles of the natural justice in respect of Respondent No.6.

7. 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 Nos.2 and 3 is only at the instances of Respondent Nos.7 and 8.

8. It is further observed that admittedly the Respondent No.2 did not issue any notice to Respondent No.6, who is original lessee of the subject land and in whose instance / favour the NOC was issued as required for commencing the subject retail outlet by Respondent No.6 at subject place.

9. It is a concluded fact that the impugned proceedings passed by Respondent No.2 is without observing the principles of natural justice, which basic tenet of administrative of law. While exercising his power, he should adhere to the basic principles of Law of Administration, includes principles of Natural Justice and every order of an authority must be with cogent reasons and should be fair and reasonable. Therefore if any order of the authority lacks any one of the principles as stated above warrants interference. Hence, in the instant case, the impugned order passed by Respondent No.2 not complied the any one of the principles stated supra. Hence, the impugned proceedings issued by Respondent No.2, dated 31.05.2023 are liable to be set-aside.

10. Accordingly, the writ petition is allowed and the impugned proceedings issued by Respondent No.2 vide Roc.C6/3096/2023, dated 31.05.2023 is hereby set aside. It is needless to observe that 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
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HON'BLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

WRIT PETITION No.14220 of 2023

8th August, 2024

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