

**In the High Court of Judicature at Hyderabad
for the State of Telangana and the State of Andhra
Pradesh**

Writ Petition No.36823 of 2012

Between:

G.Kiran Kumar and another

... Petitioners

and

**–
The State of A.P.,
rep. by the District Collector,
Hyderabad and 2 others**

...Respondents

Date of Judgment Pronounced: 03-09-2015

Submitted for Approval:

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

1. Whether Reporters of Local newspapers
Yes/No
may be allowed to see the judgments ?
2. Whether the copies of judgment may be
Yes/No
marked to Law Reporters/Journals
3. Whether Their Ladyship/Lordship wish to
Yes/No
see the fair copy of the Judgment ?

*** The Hon'ble Sri Justice C.V.Nagarjuna Reddy**

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! Counsel for the petitioners: Mr.S.Tulasi Das

^ Counsel for respondent No.1: AGP for Revenue (TS)

^ Counsel for respondent Nos.2 & 3: Mr.M.Sudhir

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> Head Note:

? Cases cited:
Nil

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Counsel for respondent No.1: AGP for Revenue (TS)

Counsel for respondent Nos.2 & 3: Mr.M.Sudhir

The Court made the following:

Order :

This Writ Petition is filed for a Mandamus to declare the unilateral action of respondent No.3, in cancelling the allotment of shop rooms made in favour of the petitioners in the shopping complex situated at Gunti, Jangai Nagar, EWS Colony, LB.Nagar, Hyderabad *vide* proceeding bearing Lr.No.C/3512/87, dated 2.4.2012, as illegal and arbitrary.

I have heard Mr.S.Tulasidas, learned Counsel for the petitioner, and Mr.M.Sudhir, learned Standing Counsel for the Andhra Pradesh Scheduled Castes Co-operative Finance Corporation Limited, appearing for the respondents.

The petitioners, who belong to the Scheduled Caste, were allotted one shop room each in the above-mentioned shopping complex by respondent No.2 *vide* proceeding No.C/3512/87, dated 03-11-2011, subject to the conditions contained therein.

After one month of such allotment, respondent No.3 has issued the proceeding bearing No.C/3512/SC/RR/87, dated 12.12.2011, wherein he has kept the allotment in abeyance until further orders. About four months later, respondent No.3 has issued the impugned proceeding cancelling the allotment and requesting the petitioners to apply for allotment of shops in the forthcoming fresh notification. Feeling aggrieved by this proceeding, the petitioners filed this Writ Petition.

On behalf of the respondents, the Executive Director (FAC) of respondent No.3- Society has filed a counter-affidavit wherein it is *inter alia* mentioned that the petitioners have not started any business in the allotted shops; that, on 28-11-2011, they were informed on phone and again on 29-11-2012, they were informed personally in the chambers of respondent No.3, not to start business in the allotted shops; and that as per the orders of the Collector/Chairman of the Society, the allotment orders were kept in abeyance on administrative grounds on 12.12.2012. The counter-affidavit asserted the power of respondent No.3 to cancel

the allotment order at any time as per condition No.11 of the Terms and Conditions laid down in the allotment proceeding, which were accepted by the petitioners. It is further averred that a fresh notification was issued on 12-11-2012, in response to which the petitioners have not applied.

On 29-11-2012, this Court, while ordering Notice Before Admission, observed that any allotment of shops made to third parties shall be subject to further orders to be passed in the Writ Petition.

Today, at the hearing, the learned Standing Counsel has submitted that, so far, no fresh allotments have been made.

A perusal of the impugned order shows that the only reason mentioned therein for cancelling the allotment was “administrative grounds”. Neither the impugned order nor atleast the counter-affidavit has explained what those administrative grounds are.

When respondent No.2 has allotted shops to the petitioners, the District Collector is stated to have intervened and issued oral directions to

respondent No.3 to keep the allotment orders in abeyance in the first place and to cancel the same later. There is no gainsaying the fact that respondent No.3- Society is established for the welfare of the people belonging to the Scheduled Caste and allotment of shops is a part of distribution of public largesse by the Corporation, which is being wholly funded by the State and administratively controlled by the officers of the State such as the Collector, the Joint Collector *etc.*

Therefore, these Officers are bound to act in a transparent and non-arbitrary manner while dealing with the schemes pursued by the Society. Even though the allotment order contains a blanket condition in the form of Condition No.11 to the effect that the Society reserved to itself the right to cancel the allotment of shop, at any time, without notice or without assigning reasons, the Society cannot act in a capricious manner. Every administrative action involving the rights of the third parties must be visited with proper reasons and rationality. The action taken without justifiable reasons by the State or its instrumentalities leads to patent arbitrariness and promotes irrationality and lack of

accountability. The march of law in the administrative field has taken long strides to outrightly reject the stand taken by the respondents based on the *carte blanche* contained in condition No.11 of the allotment order. I am, therefore, of the opinion that the respondents cannot justify their otherwise unjustifiable action by placing reliance on Condition No.11 of the allotment order.

For the aforementioned reasons, the impugned proceeding, cancelling the petitioners' allotment of shops, is not sustainable and the same is, accordingly, set aside. The respondents are directed to hand over the two shops to the petitioners in pursuance of allotment order, dated 03-11-2011, within one month from the date of receipt of this order.

The Writ Petition is, accordingly, allowed.

As a sequel, WPMP.No.46741 of 2012, filed by the petitioners for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

Dt: 3rd September, 2015

Note:

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(B/o)
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