

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

WRIT PETITION NO.11216 of 2014

Between:

Badugu Arjuna Rao s/o. Lakshmi Narayana,
Aged about 51 years, Occu:Business,
R/o. H.No.4-163, Near Ramalayam Street,
Valuripalem, Thotalavaluru Mandal,
Krishna District

.. Petitioner

AND

Government of Andhra Pradesh, Panchayat Raj
Department, Secretariat, Hyderabad, rep. by its
Secretary and others.

.. Respondents

DATE OF JUDGMENT PRONOUNCED : 19.08.2015

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SUBMITTED FOR APPROVAL:

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THE HON'BLE SRI JUSTICE P.NAVEEN RAO

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1. Whether Reporters of Local Newspapers may : No
Be allowed to see the Judgments ? :
2. Whether the copies of judgment may be marked: No
to Law Reporters/Journals :
3. Whether Their Lordship wish to see the fair : No
Copy of the Judgment ? :

**HON'BLE SRI JUSTICE P.NAVEEN RAO
WRIT PETITION No.11216 of 2014**

ORDER:

Petitioner was granted licence to run flour mill and chilli grinding unit in the year 1987. Accordingly, unit was established and is being in operation. Petitioner was served notice of the Panchayat Secretary, Vallurupalem Gram Panchayat, dated 01.04.2014, directing the petitioner to stop the operations of the unit. Aggrieved thereby, this writ petition is filed.

2. Learned counsel for petitioner contends that petitioner was not put on notice and no opportunity of hearing was given before issuing such notice. Learned counsel for petitioner contends that petitioner has not violated any provisions of the permission granted to him and there is no justification to cancel the operation of the unit.

3. The complainant-6th respondent, based on whose complaint directions were issued by the District Collector, whereby impugned orders are issued, filed petition to vacate the interim suspension passed by this Court on 16.04.2014.

4. According to the counsel for the vacate petitioner-6th respondent, petitioner is operating the unit in violation of mandatory provisions. Petitioner unit is causing pollution. Petitioner is also indulging in using/operating mill during night time; that chilli powder produced by the petitioner is causing lot of health hazardous to the 6th respondent and surrounding neighbours.

5. It appears that 6th respondent filed the complaint on the manner in which petitioner is operating his unit. He has also complained to Lokayukta. Lokayukta disposed of the said complaint directing the District Collector to look into the matter either by himself or by the Environmental Engineer. As a consequence to the said direction of the Lokayukta, District Collector ordered the Pollution Control Board, Vijayawada and District Medical and Health Officer, to enquire into the matter and submit a report. The A.P. Pollution Control Board submitted its report on 11.12.2013. Based on the report, District Collector directed the Panchayat Secretary to stop the operations of the unit.

6. The substance of the allegations made by the 6th respondent is that, petitioner has established in one shed with one mill, and subsequently added the chilli powder unit and problems started only after chilli powder unit is started. Further allegations of the 6th respondent is mill is being operated during night time in spite of several requests made and the nuisance is caused due to operation of mill during night time and causing lot of hardship to them.

7. Taking note of the rival submissions, without assigning any reason of his findings, the Environmental Engineer suggested for cancellation of the licence for producing chilli powder. The report of the Environmental Engineer does not show that any pollution is being caused on account of the operation of the unit by the petitioner. The Pollution

Control Board is only concerned with the violation of pollution norms by any manufacturing/processing unit. Whether the mill is being operated during night time and petitioner is producing chilli powder cannot be the concern of the Pollution Control Board. Thus, without looking into main issue, the Environmental Engineer erred in suggesting for closing of the chilli powder unit.

8. Without giving due opportunity to the petitioner, District Collector suo-motu acted on the report of the Pollution Control Board and directed the Panchayat Secretary to stop the operations of the unit of the petitioner. It is a clear non-application of the mind by the District Collector and in violation of the basic principles of natural justice. No opportunity of hearing was afforded to the petitioner before directing to stop the operations of the mill. The said order causes civil and evil consequences against the petitioner and no such decision could have been taken without giving due opportunity to the petitioner. On that ground alone the notice impugned is liable to be set aside and accordingly set aside.

9. However, having regard to the serious allegations made by the 6th respondent, the A.P. Pollution Control Board (5th respondent) is directed to inspect the premises of the petitioner mill, verify whether the mill is emanating any pollutants and violating pollution norms and submit a report accordingly. The 5th respondent shall conduct inspection in the presence of petitioner and 6th respondent by putting them on notice in advance before date of inspection. Based on the said report, petitioner as well as 6th respondent shall be put on notice, afford due opportunity of hearing calling for their objections. On considering all the objections/representations, the Panchayat Secretary shall pass appropriate orders as warranted by law. Until final decision is taken as directed above, no coercive action shall be taken against the petitioner.

10. Petitioner is also directed to ensure that operation of his unit does not cause any kind of inconvenience to the neighbours. Petitioner shall ensure that no pollutants released from his unit. It is also open to the 6th respondent to make appropriate complaint as warranted by law if he is aggrieved by the operation of the unit by the petitioner during the night time.

11. Accordingly, notice dated 01.04.2014 is set aside and matter remitted to Panchayat Secretary to consider afresh as directed above. Entire exercise, including inspection by the Pollution Control Board and submission of its report and consequential action by the Panchayat Secretary shall be completed within a period of six weeks from the date of receipt of a copy of this order.

12. Accordingly, the writ petition is allowed. There shall be no order as to costs.
Miscellaneous petitions if any pending in the writ petition shall stand closed.

Date : 19.08.2015
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JUSTICE P.NAVEEN RAO

HON'BLE SRI JUSTICE P.NAVEEN RAO

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