

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.3979 of 2011

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20.08.2015

Between:

M/s.Jayalakshmi Paper Product, Bhimavaram
West Godavari District

.. Petitioner

and

The Superintendent Engineer, Operations,
A.P.E.P.D.C.L., Eluru, West Godavari District and others

.. Respondents

Counsel for the petitioner: Mr.K.Vinaykanth Reddy,
for Mr.Y.V.Ravi Prasad

Counsel for respondents: Mr.T.V.Suman,
for Mr.M.Ravindra
standing counsel for A.P.E.P.D.C.L.

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The Court made the following:

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ORDER:

This writ petition is filed for a *mandamus* to set aside proceedings in Lr.No.AE/O/D3/BVRM/F.Doc/D.No.33/11, dated 24.01.2011 of respondent No.3, whereby he has disconnected the power supply to the petitioner's service connection.

I have heard the learned counsel for the parties and perused the record.

The respondents have released an industrial service connection to the petitioner for running a paper board unit in Bhimavaram municipality. Thereafter, respondent No.3 has issued the impugned proceedings, dated 24.01.2011, to the petitioner, wherein, it is, *inter alia*, stated that after the service connection was sanctioned to the petitioner and the line work was being taken up, the petitioner's neighbours have taken an objection to the effect that the petitioner has not obtained the municipal approval; that due to the said objection, the work was stopped after intimation to the petitioner; that after a few days, the petitioner has requested the Assistant Divisional Engineer (Operation), Bhimaravam, to complete the work and meanwhile, it will submit municipal approval and that as per the said request, the work was completed on the instructions of the Assistant Divisional Engineer (Operation), Bhimavaram, and the service was connection released. It is further stated that till date, the petitioner has not submitted the municipal approval for the said premises and that therefore, the electrical supply was disconnected.

The learned counsel for the petitioner strenuously submitted that the petitioner has obtained municipal approval on 19.10.2010 and also No Objection Certificate (NOC) from Bhimavaram municipality for

release of the service connection. He has also placed reliance on letter, dated 03.02.2011, addressed by the Assistant Divisional Engineer, Operation, Bhimavaram, to respondent No.1, wherein, it is, *inter alia*, mentioned as under:

“It is to submit that supply to M/s.Jayalaxmi Paper Boards in D3 Section/Bhimavaram was disconnected on 23.01.2011 for non-submission of documents. The party has submitted the following documents.

1. Firm registration copy along firm deed.
2. Site registered documents.
3. N.O.C. from Bhimavaram Municipality.
4. Lease deed agreement copy.
5. Municipal Town Plan Approval copy.
6. Municipal approval copy.

In View of above, it is requested to give necessary permission for release of supply to the consumer.

This is submitted for favour of taking further necessary action please.”

This Court, by interim order, dated 21.02.2011, in W.P.M.P.No.4923 of 2011, referred to the above reproduced letter and directed restoration of power supply. The learned counsel for both the parties submitted that on the strength of the said interim order, the power supply to the petitioner is being continued.

In paragraph 7 of the counter-affidavit, respondent No.3 has averred as under:

“It is (sic ‘to’) submit that the municipal authorities have issued plan approval for the industry through single window scheme. But they have not issued NOC certificate they have given permission for iron shed only instead of factory. Hence AE/O/D3/BVRM has issued notice & disconnected the service.”

However, in paragraph 8 of the counter-affidavit, he has averred as follows:

“It is (sic ‘to’) submit that in the present case the complaint is received in this department not from the Municipal department. The AE/O/D3/Bhimavaram. The petitioner has no approval from the Municipal authority for

construction of industry. Hence the service is liable for disconnection. The petitioner is supposed to submit the approval given by the municipal authority for construction of his industry. Failed to submit the same the AE/O/D3/Bhimavaram has disconnected the service.”

From the contents of paragraphs 7 and 8 of the counter-affidavit, as reproduced above, it is seen that there is some contradiction between the two paragraphs. While in paragraph 7, it is stated that the municipal authorities have issued plan approval for the industry through single window scheme and they have not issued NOC, but issued permission for iron shed only instead of factory, in paragraph 8, it is averred that the petitioner has no approval from the municipal authority for construction of industry.

In my opinion, the dispute would have been avoided, had a prior notice been issued to the petitioner before resorting to the action of disconnection of power supply. Had such notice been issued, the petitioner would have been able to put-forth its case and in the event of respondent No.3 not being satisfied, it would have been open to him to disconnect the power supply. As respondent No.3 has disconnected the power supply without prior notice, his action constitutes violation of the principles of natural justice.

For the aforementioned reasons, the impugned proceedings, dated 24.01.2011, are set aside without expressing any opinion as to whether the petitioner has proper permission for construction of a building for running an industry and also NOC from Bhimavaram municipality for running an industry. Respondent No.3 is permitted to issue a fresh notice to the petitioner calling for its objections to the proposed action. If the petitioner files its objections within the time stipulated by respondent No.3 in the notice, the latter shall consider the same and after giving the petitioner an opportunity of personal hearing, take appropriate action depending upon the objections that may be raised and the documents that may be produced by the

petitioner.

The Writ Petition is accordingly allowed to the extent indicated above.

As a sequel to allowing the writ petition, W.P.M.P.No.4923 of 2011 and W.V.M.P.No.2492 of 2013 shall stand disposed of.

C.V.NAGARJUNA REDDY, J

20th August, 2015
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