

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA & THE STATE OF ANDHRA PRADESH
(Special Original Jurisdiction)

MONDAY, THE THIRTIETH DAY OF MARCH
TWO THOUSAND AND FIFTEEN

PRESENT

THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

WRIT PETITION No.38521 of 2014

BETWEEN

M/s. Ushodaya Polymers.

... PETITIONER

AND

The State of Andhra Pradesh, Rep. by its Principal Secretary, Industries & Commerce Department, Secretariat, Hyderabad and others.

...RESPONDENTS

Counsel for the Petitioner: MR. RAVI CHEEMALAPATI

Counsel for the Respondents: GP FOR INDUSTRIES & COMMERCE

GP FOR REVENUE

The Court made the following:

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ORDER:

Petitioner herein is stated to be an SSI Unit established at Sirivellapalem village in Sy.No.73/11 of Machilipatnam Mandal, Krishna District and as per the policy of the Government, petitioner received various subsidies.

2. While the petitioner unit has been working as such, it was served with impugned proceedings dated 24.05.2014 and a notice dated 03.07.2014 wherein the Additional Director of Industries in his proceedings dated 24.05.2014 communicated the decision of 102nd SLC meeting held on 15.05.2015 that the first instalment advance subsidy of Rs.17,50,000/-, released and availed by the petitioner, was found to have been used by showing second hand machinery and as such, petitioner was found not eligible and it was given notice to remit the availed subsidy of Rs.17,50,000/- and the second instalment proposed to be released was cancelled. The said proceedings are questioned in this writ petition.

3. When this writ petition was heard on the earlier occasion, it was brought to the notice of this Court that similar issue was already considered in WP.No.23373 of 2014 dated 21.10.2014 wherein also on the similar allegation against the petitioner therein the first instalment was sought to be recovered and release of second instalment was cancelled. The said writ petition was allowed on finding that before issuing the said proceedings, the petitioner was not given any notice, hence, the impugned orders were set aside and the writ petition was allowed, however, with a liberty to the respondents for passing fresh orders after following due procedure in accordance with law.

4. Learned Government Pleader has received specific instructions from the Director of Industries dated 04.03.2015 wherein it is not contraverted that the petitioner was not given show cause notice and on the contrary, it is proposed that the Director of Industries would

issue appropriate show cause notice to the petitioner and after considering the reply, would take appropriate further decision.

In view of the above, the writ petition is allowed with similar directions, as in WP.No.23373 of 2014 dated 21.10.2014, extracted hereunder:

“It is not, however, discernible from the counter affidavit that the petitioner was given any notice before the order canceling the investment subsidy was passed on the aforesaid ground. The said ground remains uncontroverted and the fact that the petitioner was not given any notice and opportunity of hearing to defend the conclusions reached against him by the MDC, stands established and therefore, the impugned order which results in serious consequences cannot be sustained and it is accordingly set aside along with consequential orders passed by the respondents. However, this will not preclude the respondents from passing fresh orders in accordance with law after giving notice, taking explanation from the petitioner and hearing him. The petitioner is at liberty to raise all his contentions in the explanation.”

As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

VILAS V. AFZULPURKAR, J

March 30, 2015

DSK