

THE HON'BLE SRI JUSTICE RAJA ELANGO

Writ Petition No.12938 of 2006

ORDER :

This Writ Petition is filed challenging the G.O.Ms.No.363, Revenue (Endowments-IV) Department, dated 23-03-2006 issued by the Government, whereby the Government cancelled the earlier G.O. Ms.No.327, Revenue (Endowments-IV) Department, dated 12-06-2002.

2. The brief facts of the case are as follows :

The petitioner is the registered association with registration No.72 of 1986 called "Guntur Kothapet Cloth Merchants Welfare Association".

The 3rd respondent is the Executive Officer of the choultry called 'Yadavalli vari choultry'. The said choultry is having a land to the extent of 9446 square yards, which has been kept vacant since long time. Hence, the

3rd respondent intends to promote the same for the purpose of generating funds for the welfare of the choultry. Since it was decided by the

3rd respondent to generate the funds, either by way of leasing out the land, or by entering into an agreement for construction of shopping complex, or for outright sale, he started the process in the year 2002. Thus, the

3rd Respondent called for tenders for leasing out the land proposing to construct the shops. When the tenders were

opened, the

petitioner-association became the highest bidder by offering Rs.1.35ps. per square feet and subsequently, on negotiations, it was raised to Rs.1.75ps. per square feet. Thereafter, a Three Men Committee was formed and they proposed to the Government for leasing out the premises. Thereafter, the proposal was changed and they proposed to construct buildings and to share the same in 50 : 50 ratio. On the basis of the proposal sent, the Government also issued G.O. Ms.No.327, Revenue (Endowments-IV) Department, dated 12-06-2002 directing the authorities to proceed further and formulate the methods for construction of the said buildings in the land, which belongs to the third respondent. But, in the meanwhile, the Government has also directed not to hand over the property for the purpose of developing, taking into consideration of the fact that the Government intends to scrutinize the earlier G.O. Ms. No.327 and also various representations made by the public. The Government has also called for explanation from the

petitioner-association prior to cancelling the G.O.Ms.No.327 and the explanation was also submitted by the petitioner-association.

The Government, not satisfied with the explanation and also taking into consideration that the allotment of the land for the purpose of construction is contrary to the provisions of Section 80 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short, the 'Act'), cancelled the G.O.Ms.No.327 by way of G.O.Ms.No.363.

3. The G.O.Ms.No.363, Revenue (Endowments-IV) Department, dated 23-03-2006 is now under challenge. In the said G.O. the Government cancelled the earlier G.O.Ms.No.327, Revenue (Endowments-IV) Department, dated 12-06-2002 observing as follows :

“After careful examination of the matter with reference to the explanation submitted by the Association, Government observe that the offer of construction of 320 rooms should have been published in news papers and wide publicity should also have been given inviting applications from interested parties, for the development of land. Nothing of this sort was followed in this case.”

4. The learned counsel for the petitioner-association vehemently contended that the Government can dispense with the publication of the intention of sale in the Government Gazette as per the proviso to Section 80 of the Act. This Court is of the view that when the G.O.Ms.No.327 was passed, it was not mentioned therein that they dispense with the publication in view of the proviso to Section 80 of the Act. Hence, the petitioner cannot claim any right that in view of the proviso to Section 80 of the Act, the benefit should be given to the petitioner herein and further, on perusal of the entire records concerned and also on the basis of the submissions made, this Court is able to see that there were negotiations between 3rd respondent and the petitioner and also the 2nd respondent. The petitioner-association has not parted with any amount and it has not started any construction work. Hence, the cancellation of the G.O.Ms.No.327 by the present G.O.Ms.No.363, has not caused any prejudice or harm to the

petitioner-association. Hence, this Court is of the view that there is nothing to interfere with the order passed by the Government in G.O.Ms.No.363, Revenue (Endowments-IV) Department, dated 23-03-2006.

5. Accordingly, the Writ Petition fails and it is dismissed. No costs.

As a sequel, miscellaneous petitions pending, if any, in this Writ Petition are closed.

JUSTICE RAJA ELANGO

21st January, 2015

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