

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

W.P.No.21999 of 2014

Between:

M/s. Sri Veera Padmaja Oil and Flour Mill

... Petitioner/Appellant (s)

And

The Government of Andhra Pradesh
and 5 others

... Respondent (s)

DATE OF JUDGMENT PRONOUNCED: 03.08.2015

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

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

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HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.21999 OF 2014

ORDER

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The case of the petitioner is that his father purchased an extent of 96 sq.yards and thereafter he made an application to the 5th respondent seeking permission to establish and run oil and flour mill in the said premises. Subsequently, the 4th respondent vide his letter dated 20.12.1976 forwarded the proposal to the Director of Town Planning, Andhra Pradesh and District Medical Officer, West Godavari for their approval and they have granted their approval for establishment of the mill vide letters dated 28.01.1977 and 10.01.1977 respectively. Later, the Managing Committee of Gram Panchayat passed Resolution No.89 dated 19.10.1978 resolving to issue permission in favour of the petitioner and accordingly, the 5th respondent passed an order permitting the petitioner to establish and run the Mill vide proceedings date 21.10.1978. Thereupon, the petitioner's licence was renewed from time to time and the last renewal receipt is issued from 17.10.2011 to 2014 by the 4th respondent. On 13.02.2014, though the petitioner made an application along with the prescribed fee to the 4th respondent, no orders are passed so far. Meanwhile, the 4th respondent issued a letter dated 08.07.2014 to the 2nd respondent directing him to disconnect the power supply alleging that the petitioner does not hold valid licence and is causing inconvenience to the neighbours. Basing on the said letter, the 2nd respondent issued a show cause notice dated 23.07.2014 directing the petitioner to submit explanation within 7 days from the date of its receipt. In pursuance to the said show cause notice, the petitioner submitted his explanation to the 2nd respondent. But the 2nd respondent without passing any orders, attempted to disconnect the power supply to the petitioner's unit. Aggrieved by the letter dated 08.07.2014 issued by the 4th respondent and the show cause notice dated 23.07.2014, issued by the 2nd respondent, the present writ petition is filed.

In W.P.No.32757 of 2011 which is a connected matter to this writ

petition, the 1st respondent-District Panchayat Officer therein filed counter denying the contention of the 6th respondent herein that the oil mill including chilly powder is not causing air pollution and sound pollution during the night times. It is also stated that there is a dispute between the 6th respondent and the petitioner herein regarding running of the oil and flour mill, as such several petitions were filed by the 6th respondent to the higher authorities to shift the mill from that place. The Environmental Engineer, A.P. Pollution Control Board, Eluru has conducted enquiries and directed the petitioner to run the mill subject to condition that the petitioner must construct a compound wall upto the level of the shed and such other conditions. It is also stated that since the petitioner has not complied with the instructions of the Environmental Engineer, the 2nd respondent issued a notice dated 28.05.2011 to shift the oil and flour mill from the existing location to some other place and informed that failing which action will be initiated under Section 133(2) of Criminal Procedure Code. Aggrieved by the same, the petitioner filed Criminal Petition No.4849/2011 dated 19.07.2011 and got set aside the orders of the 2nd respondent. The Panchayat Secretary, Gram Panchayat, submitted that as the ventilators of the oil and flour mill were closed, the air and sound pollution was controlled, as such the problem of the 6th respondent was solved. Therefore, the District Panchayat Officer issued a Memo dated 15.10.2011 permitting the Gram Panchayat to issue license to the petitioner. Basing on the directions, the Gram Panchayat gave permission to the petitioner to continue the oil and flour mill and the petitioner is running his mill as per the conditions of A.P. Pollution Control Board.

Counter is filed by the 5th respondent stating that at the time of establishing the flour mill, the said area was vacant and away from the residential area and now the entire area is covered with residential houses. In view of the complaints and representations from the local residents, the Tahsildar, Penumantra addressed a letter to the Panchayat

Secretary, Penumantra on 08.07.2014 to take steps for removal of the petitioner's flour mill. In pursuance to the same, the 5th respondent issued notice dated 04.08.2014 to the petitioner calling his explanation for shifting of his flour mill. Accordingly, the petitioner filed his reply stating that the flour mill is being run after obtaining all the permissions from the concerned authorities. Further, it is stated that the trade license granted to the petitioner by the Gram Panchayat was expired by February, 2014. Prior to the inspection of Tahsildar, Penumantra, the petitioner made an application to the Gram Panchayat for renewal of trade license, but the same was rejected by the 5th respondent. When the petitioner refused to receive the rejection order, the same was sent through the registered post, even then the petitioner tried to avoid the same. Then, the 5th respondent though orally informed the petitioner about the orders passed by the Gram Panchayat, the petitioner highhandedly running flour mill without license. Subsequently, in view of the rejection of the trade license of the petitioner, the 5th respondent addressed a letter to the Assistant Engineer (Operation), APEPDCL, Penumantra to disconnect the power supply to the petitioner's flour mill and accordingly, the Assistant Engineer, APEPDCL issued a notice on 23.07.2014 to the petitioner for disconnection of power supply to his mill.

Learned counsel for the petitioner submits though the petitioner's application for renewal of his licence for the period 02.02.2014 to 02.02.2014 is pending before the respondents, the respondents issued impugned orders. Since the petitioner application is pending, the respondent authorities cannot stop him from doing business because as long as his application for renewal is pending, it is deemed that petitioner licence is valid and subsisting as per Section 127 of Panchayat Raj Act. He also submits that basing on the letter dated 08.07.2014 issued by Tahsildar, Penumantra, the power supply to the petitioner's mill was disconnected and the same is without jurisdiction as the Tahsildar has no power to do the same as long as the trade licence of the petitioner is

subsisting. He also submits that the Tahsildar straight away cannot issue the impugned order without conducting enquiry as to what is the nuisance caused by the petitioner's mill. He also submits that causing of inconvenience to one of the neighbours does not amount to public nuisance as held by this Court in Criminal Petition No.902 of 2009.

Learned counsel for the respondents reiterated the submissions made in the counter affidavit and stated that as on today, though petitioner has no licence, he is running the mill, causing nuisance to the inhabitants of the locality. He also submits that once the application of the petitioner for renewal of trade licence is rejected, petitioner cannot continue to do business.

When the matter was heard on the last occasion, learned Standing counsel for the Gram Panchayat was asked to produce the proceedings regarding rejection of petitioner's renewal application, and as the petitioner disputed that his application for renewal was rejected and the same is served on the petitioner. Learned Standing counsel has produced proceedings in Rc.No.28 of 2014 dated 05.03.2014 wherein the reading of the said proceedings show that only DD's sent by the petitioner along with the renewal application is returned on the ground that the orders passed by this Court in W.P.No.32757 of 2011 have to be implemented by virtue of orders passed by Tahsildar on 08.07.2014 and also orders passed by the District Panchayat Officer. This Court has disposed of W.P.No.32757/2011 on 13.07.2015 holding that the District Panchayat Officer has no authority to issue the impugned order and the same is without jurisdiction; and that it is for the licensing authority to consider the renewal application of the petitioner independently as per law. When this Court held that the orders passed by the District Panchayat Officer is without jurisdiction, the question of implementing the orders of the District Panchayat Officer does not arise. More so, nothing is stated in the proceedings dated 05.03.2014 except returning of DD's, therefore the same is passed without application of mind. It is for the petitioner to resubmit the necessary fees as prescribed under law within a period of

two weeks from today. On such submission, it is for the 5th respondent to pass orders in accordance with law without being influenced by any of the orders passed by the District Panchayat Officer or Tahsildar. However, it does not mean that the respondents are restrained from taking any action against the petitioner, if he violates any of the conditions.

With the above direction, the writ petition is disposed of. Till then, status-quo obtaining as on today shall be maintained. However, if the petitioner fails to resubmit the necessary fees within a period of six (6) weeks from today, it is open for the respondent authorities to take appropriate action in accordance with law. There shall be no order as to costs.

As a sequel, miscellaneous petitions pending if any, shall stand closed.

A.RAJASHEKER REDDY,J

Date: 03.08.2015

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