

**HON'BLE SRI JUSTICE A. RAJASHEKER REDDY**

**Writ Petition No.39122 of 2014**

**Date: 19-02-2015**

Between:

M/s. Rajeswari Enterprises, represented by its  
Managing Partner, N. Mahesh Kumar, Hyderabad.

.. Petitioner

AND

The State of Telangana, represented by its Secretary,  
Tourism Department, Secretariat, Hyderabad and another

.. Respondents

**HON'BLE SRI JUSTICE A. RAJASHEKER REDDY**

**Writ Petition No.39122 of 2014**

**ORDER:**

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This writ petition is filed for a mandamus declaring the action of the 2<sup>nd</sup> respondent in interfering with running of Children Amusement Centre at Shilparamam even though the period of lease vide letter dated 24-01-2014 is still subsisting as illegal and arbitrary and for a consequential direction to the 2<sup>nd</sup> respondent not to interfere during the subsistence of the lease.

2. The case of the petitioner is that basing on a representation made by the petitioner for allotment of site for an entertainment project- Children Amusement Centre at Shilparamam, the 2<sup>nd</sup> respondent, after considering the same, issued proceedings dated 24-01-2014 allotting 1800SFT site with certain conditions, pursuant to which, the petitioner addressed a letter dated 20-02-2014 to the 2<sup>nd</sup> respondent for change of site from Sand Beach to Beside Boating site and the same was

approved by the 2<sup>nd</sup> respondent vide letter dated 24-02-2014, wherein it is acknowledged the receipt of demand draft for an amount of Rs.1,72,800/- towards security deposit for 1800 SFT @ Rs.32/- and thereafter, the petitioner is running the amusement park as approved by the 2<sup>nd</sup> respondent vide proceedings dated 24-01-2014. The petitioner was issued a notice dated 13-08-2014 alleging certain violations and directed to pay the rent in excess of the space allotted and also to remove electrical train and to pay the dues as the petitioner has occupied the space more than the required area. It is also stated that the petitioner submitted his explanation to the said notice, but the 2<sup>nd</sup> respondent without passing any orders thereon, disconnected the electricity power supply. Aggrieved by the same, the present writ petition is filed.

3. The 2<sup>nd</sup> respondent filed its counter affidavit stating that the petitioner has occupied the area in excess of its allotment and has also not obtained any permission from the police since the petitioner is running Amusement Centre and the petitioner was asked to remove electrical train as the sound generated by it was spoiling the rural atmosphere and also causing nuisance to the adjoining stalls at Shilparamam and that is the reason the electricity connection was disconnected.

4. Learned counsel for the petitioner submits that in spite of giving explanation to the notice issued dated 13-08-2014 without passing any orders, the 2<sup>nd</sup> respondent unilaterally and arbitrarily disconnected the power supply and that the petitioner has already removed the electrical train and also paid the entire arrears.

5. On the other hand, learned Government Pleader for Tourism submits that since the petitioner has exceeded the allotment and occupied the space than the required area, the 2<sup>nd</sup>

respondent issued the impugned show cause notice and asked to remove the train. He further submits that obtaining permission from the Police Commissioner is mandatory for running the train, which the petitioner did not do so.

6. A perusal of allotment proceedings issued to the petitioner shows that the petitioner was allotted approximately 1800 SFT open space for running amusement park. Thereafter, the petitioner made a request for change of site from Sand Beach to Beside Boating site in order to erect the site easily and install the children's rides and the 2<sup>nd</sup> respondent, on considering the same, approved the proposal for change of site as requested by the petitioner and accordingly, the petitioner changed the site and installed the rides. Thereafter, the 2<sup>nd</sup> respondent issued a notice dated 13-08-2014 alleging that the petitioner is due some arrears of electrical charges and also directing to remove the electrical train as it is causing noise to the stall owners of that area. A perusal of the material on record shows that neither in the notice dated 13-08-2014 nor in the allotment letter dated 24-01-2014, it is stated that permission from the Commissioner of Police is required for running amusement park. In the counter affidavit also, there is no recital about non-payment of rents and the dues if any. It is also not stated that the 2<sup>nd</sup> respondent passed any orders in pursuance of notice dated 13-08-2014, though the petitioner replied to the said notice. Admittedly, the allotment of the said land is for a period of three years and the 2<sup>nd</sup> respondent never stated that the said lease expired. Therefore, in the light of subsistence of lease period, the unilateral action taken by the 2<sup>nd</sup> respondent in disconnecting the electricity supply is arbitrary, illegal and nothing but abuse of power. Anyhow, it is suffice to say that if the

petitioner is found to have occupied the area in excess of the allotted area, it is always open for the 2<sup>nd</sup> respondent to direct the petitioner to restrict to the allotted area of 1800 SFT, but the 2<sup>nd</sup> respondent has no right to disconnect the electricity supply for the entire area. The action initiated by the 2<sup>nd</sup> respondent in disconnecting the electricity power supply is nothing but arbitrary and illegal. Further, since it is stated by the 2<sup>nd</sup> respondent that the petitioner is in arrears of rentals as mentioned in the impugned notice, the petitioner is obligated to pay arrears of rent to the 2<sup>nd</sup> respondent, if not already paid, and continue to pay the same till allotment period expires. However, if the petitioner is liable under the law to obtain police clearance for running the Children Amusement park, the petitioner shall make necessary steps for obtaining such permission from the police. In view of the same, the interim order granted on 19-12-2014 shall be continued till expiry of the lease period.

With the above direction, the writ petition is disposed of. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

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**A. RAJASHEKER REDDY, J**

Date: 19-02-2015

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