

THE HONOURABLE MR JUSTICE A.V.SESHA SAI

WRIT PETITION No.589 of 2009

-

ORDER

This writ petition, filed under Article 226 of the Constitution of India, challenges the order passed by the Joint Collector, Krishna, Machilipatnam vide proceedings Rc.B2/616/2008 dated 20.12.2008.

2. Heard Sri K. Vinaya Kumar, learned counsel for the petitioner and learned Government Pleader for Civil Supplies for respondent.

3. The respondent herein issued a show cause notice bearing Rc.B2/616/2008 dated 17.11.2008, asking the petitioner herein to show cause as to why Form-B license bearing No.18/2000 should not be suspended under Clause 28(2) of Andhra Pradesh Petroleum Products (L & RS) Order, 1980. In response to the said show cause notice, the petitioner herein submitted an explanation on 29.11.2008. Thereafter, the respondent issued an order vide proceedings Rc.B2/616/2008 dated 20.12.2008, imposing penalty of Rs.30,000/- under Clause 28(1) of Andhra Pradesh Petroleum Products (L&RS) Order, 1980.

4. Calling in question the validity and legal acceptability of the said order passed by the respondent herein, the present writ petition came to be instituted.

5. This Court while issuing rule nisi on 21.01.2009, granted interim stay in W.P.M.P.No.713 of 2009. No counter affidavit has been filed by the respondent either in the direction of denying the averments made in the affidavit filed in support of writ petition or in

the direction of justifying the impugned action.

6. It is contended by the learned counsel for the petitioner that the order impugned is highly illegal, arbitrary and violative of the principles of natural justice. It is further contended that the respondent herein being a quasi judicial authority is expected to assign cogent and convincing reasons for arriving at the conclusion. It is further submitted by the learned counsel for the petitioner that the order impugned in the present writ petition is completely bereft of any valid reasons. It is further submitted that had the contentions of the explanation submitted by the petitioner herein been considered from proper perspective, the order impugned would not have emanated.

7. On the contrary, it is vehemently argued by the learned Government Pleader for Civil Supplies that in the facts and circumstances of the case, the respondent herein is perfectly justified in passing the impugned order. It is further contended by the learned Government Pleader that there is no illegality nor any infirmity in the impugned order, as such, the present writ petition is not maintainable and the petitioner herein is not entitled to any relief from this Court under Article 226 of the Constitution of India.

8. In the above background, the issue that emerges for consideration is whether the order impugned is sustainable and whether the same is in accordance with law.

9. The material available on record manifestly discloses that in response to the show cause notice issued by the respondent, the petitioner herein submitted an elaborate explanation dated 29.11.2008, touching all the charges levelled against him. A

perusal of the order under challenge vividly discloses that except extracting the contents of the explanation, the respondent authority did not deal with the defense set up by the petitioner from proper perspective.

10. It is a settled and well established proposition of law that the orders of the quasi judicial authority should be supported by valid and convincing reasons. It is also obligatory on the part of the authority to consider the contents of the explanation offered. In the instant case, as observed supra, the respondent quasi judicial authority did not undertake such an exercise. In the definite opinion of this Court, the mode and manner in which the respondent conducted the proceedings is highly unreasonable. Therefore, this Court has absolutely no scintilla of hesitation nor any traces of doubt to hold that the respondent herein failed to consider the material available on record. Therefore, this Court is inclined to set aside the impugned order and to remand the matter to the respondent herein for fresh consideration and to pass appropriate orders after giving notice of hearing to the petitioner and after considering the explanation submitted by the petitioner.

11. For the aforesaid reasons, the Writ Petition is allowed, and the proceedings of the respondent vide Rc.B2.616/2008 dated 20.12.2008 are hereby set aside and the matter is remanded to the respondent herein for consideration and to pass appropriate orders afresh after giving notice of hearing to the petitioner and after considering the explanation submitted by the petitioner. This exercise shall be completed within three months from the date of receipt of a copy of this order. No order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

A.V.SESHA SAI, J

23rd January, 2015

sj