

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

WRIT PETITION No.24191 of 2015

Between:

Nakirikanti Rahul

... Petitioner

and

The State of Telangana,
Rep. by its Principal Secretary,
Social Welfare (T.W), Department,
Secretariat, Hyderabad
and others

... Respondents

DATE OF JUDGMENT PRONOUNCED: 04-08-2015

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

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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 Reporters/Journals? | Yes/No |
| 3. Whether Their Lordship wish to see the
fair copy of the Judgments? | Yes/No |

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.24191 of 2015

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ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking the following relief:

"To issue Writ, Order or direction more in the nature of Mandamus declaring the action of the Respondents in treating the petitioner village, i.e., Gumpena of Chandrugonda Mandal of Khammam District (erstwhile Madira Taluk of Warangal District) as agency area and not issuing no objection certificate by the District Collector for establishment of Petrol Pump Retail

Outlet in patta lands of the petitioner in Sy.No.196 in respect of the offer made by the B.P.C.L., in favour of the petitioner and taking steps to withdraw the offer for establishment of Petrol Pump retail outlet by B.P.C.L., through notice dated nil is illegal, arbitrary and in violation of Articles 14, 19, 21 and 300(A) of the Constitution of India and V Schedule of the Constitution of India and contrary to the Tribal Area Regulation notified under 1359 Fasli issued by the Government of Hyderabad dated 7-12-1950 and consequently declare that the petitioner is entitled for no objection without treating village in question as scheduled area for establishment of Petrol Pump Retail Outlet at Gumpena village, Chandrugonda Mandal of Khammam District."

Heard Sri P.V.Ramana, learned counsel for the petitioner, learned Government Pleader for Social Welfare for respondent Nos.1 and 2, learned Government Pleader for Revenue for respondent Nos.3 and 4, and Sri O.Manohar Reddy, learned Standing Counsel for respondent Nos.5 and 6, apart from perusing the material available before this Court.

Bharat Petroleum Corporation Limited (BPCL) issued a notification dated 14.09.2011, inviting applications from the interested persons for establishment of Retail Outlets at various places including Gumpena village, Chandrugonda Mandal of Khammam District. According to the petitioner, respondent Nos.5 and 6 selected him for the said Outlet and issued a letter of intent on 23.05.2012 in favour of the petitioner herein. Subsequently, the 5th respondent – Corporation addressed a letter vide VJT.KHM.GUMPEN dated 21.07.2012, requesting the District Collector, Khammam District – 3rd respondent herein to grant No Objection Certificate for developing a new Retail Outlet at the subject location. Subsequently, the Collector and District Magistrate, Khammam, vide letter Rc.No.C2/1787/2012 dated 05.11.2013 requested the Commissioner of Tribal Welfare Department, Hyderabad, to clarify as to whether transfer of the subject scheduled area in favour of Bharat Petroleum Corporation Limited, Vijayawada, which is a Government of India Enterprise, for 30 years attracts the provisions of the Land Transfer Regulation Act, 1959 or not. According

to the petitioner, subsequently on the ground of non-receipt of No Objection Certificate from the concerned authority, the 5th respondent-Corporation issued a show cause notice in the month of July, 2015 asking the petitioner as to why withdrawal of the offer of Retail Outlet Dealership should not be made. Subsequently, on 03.07.2015, the petitioner herein made a representation to the Territory Manager (Retail), Manager of the BPCL, Warangal, requesting to consider his application and commence the process immediately. It is also the case of the petitioner herein that on 20.07.2015, he made a representation to the District Collector, Khammam District requesting to grant no objection certificate. A copy of the said representation dated 20.07.2015 is placed on record by the petitioner along with the present writ petition. In the said representation, it is stated that the subject village, viz., Gumpena village of Chandragunda Mandal, Khammam District, was not declared as Scheduled Area at the time of proposals sent to issue the CO 26, dated 07.12.1950 of Scheduled Areas, Part-B States Order. It is also stated that Gumpena village was earlier in Madhira Thaluk and the said village is never included in the list of 227 Villages of Declared Scheduled Area. The grievance in the present writ petition is in view of the inaction on the part of the Revenue Authorities in responding to the letter of the BPCL asking for No Objection Certificate, the petitioner herein is facing the threat of cancellation of the letter of intent with regard to the retail outlet.

In view of the above circumstances, the District Collector, Khammam District – 3rd respondent herein, is directed to consider the representation dated 20.07.2015 submitted by the petitioner herein requesting for issuance of no objection and pass appropriate orders thereon, within a period of one (1) month from the date of receipt of a copy of this order, after giving notice and opportunity of being heard to the petitioner. Till such exercise attains finality, respondent Nos.5 and 6 shall not take any coercive steps pursuant to the show cause notice vide Ref: WL. VMBNJR NH221.01 dated nil issued for cancellation of the

subject Retail Outlet Dealership.

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

A.V.SESHA SAI, J

Date: 04.08.2015

Note: CC in three days
(B/o)
siva