

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

WRIT PETITION NOs.36804, 36808, 36810, 36811, 36813, 36815,
36816, 36817, 36819, 36826, 36848, 36850, 36861, 36862, 36864
AND 36892 OF 2015

COMMON ORDER:

1. The petitioners in these Writ Petitions assail the action of the fourth respondents in not renewing their licenses to carry on business as Commission Agents in the fourth respondent-Agricultural Market Committee.

2. They contend that they have all been granted licenses for carrying on business as Commission Agents in the fourth respondents-Market Committee; that after the licenses expired, they applied for renewal of the said licenses; and some of the petitioners' applications for renewal were in fact made in the year 2013 itself (as in the case of the petitioner in W.P.No.36804 of 2015). They allege that without passing any order on those applications, the respondents are violating Articles 14, 19(1)(g) and 21 of the Constitution of India. Petitioners rely upon Rule 50 of the Andhra Pradesh (Agricultural Produce and Live Stock) Markets Rules, 1969 ("the Rules" for brevity), which direct the fourth respondent-Market Committee to either renew the license or reject the application for renewal giving reasons for such rejection within fifteen days from the date of receipt of application for renewal of application.

3. In the counter affidavit filed by the fourth respondent, certain reasons are assigned justifying the action of the respondents in not renewing the licenses of the petitioners including the fact that reliance was placed on legal opinion of the Government Pleader of Guntur District on a certain issue. Apart from that, reference was also made to G.O.Ms.No.57 Agriculture and Co-operation (AM.II) Department dated 12.10.2015 laying down certain new norms modifying the earlier norms notified vide G.O.Ms.No.17 Agriculture and Co-operation (AM.IV) Department dated 31.01.2013.

4. Although counter affidavits have been filed by the fourth respondent in all these matters, the contents of the counter affidavits are identical and no explanation is furnished why within the fifteen-day period prescribed under sub Rule (2) of Rule 50 of the Rules, no orders have been passed on the applications made by the petitioners seeking renewal of licenses as Commission Agents in the fourth respondent-Market Committee.

5. It is not disputed that all applications for renewal were made long before G.O.Ms.No.57 dated 12.10.2015 was issued. It is not open to the fourth respondent to keep the applications for renewal of licenses as Commission Agents in the fourth respondent-Market Committee pending indefinitely for more than two years in some cases, and then seek to apply new norms which have been notified as recently as on 12.10.2015.

6. From the counter affidavit, it is also clear that the fourth respondent has outsourced his decision making to the Government Pleader of Guntur District on certain issues which arise for consideration in the matter, which is also not permissible in law. When power is conferred on particular authority to take a decision on a matter, it is not open for that authority to outsource the decision making to a third party and act thereon.

7. In this view of the matter, the whole approach of the respondents in regard to the issuing of renewal of licenses as Commission Agents in the fourth respondent-Market Committee appears to be clearly arbitrary, illegal and contrary to the provisions of the Andhra Pradesh (Produce and Live Stock) Market Act, 1966 and Rules made thereunder, in particular Rule 50(2) of the said Rules.

8. Therefore, all the Writ Petitions are allowed and direction is given to the fourth respondent to dispose of within fifteen days from the date of receipt of a copy of this order the applications filed by the petitioners independently by passing separate orders on such applications giving reasons if it is decided not to renew the licenses of any of the petitioners. Pending such action, the respondents shall not

interfere with the activities of the petitioners as Commission Agents in the fourth respondent-Market Committee. The fourth respondent shall pay costs of Rs.500/- (Rupees five hundred only) to each of the petitioners in these Writ Petitions within two (2) weeks from today.

9. It is the contention of the counsel for the petitioners that in some of these cases, the officials of fourth respondent had refused to receive the fee payable for renewal and that on a representation made by some of the petitioners, they accepted license fee but in case of others, they have not done so. Counsel for the petitioners states that all the petitioners are always ready and willing to pay the requisite fee for seeking renewal of the licenses in their favour and the officials of the fourth respondent be directed to receive it. In this view of the matter, the officials of the fourth respondent are also directed to receive license fee for renewal from such of the petitioners, who had not paid the same earlier, if it is paid within one week from the date of receipt of a copy of this order.

10. Miscellaneous petitions, if any, pending shall stand closed.

(M.S.RAMACHANDRA RAO, J)

20th November 2015

Note: Issue CC by one week

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