

HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.19042 of 2015

ORDER:

The petitioner is a Sanitary Labour Welfare Association. On application submitted by the said Association on 31.07.2010, the Rayachoty Municipality, YSR Kadapa District (2nd respondent) accorded permission for construction of Pay and Use toilets at RTC bus stand, Rayachoty. Initially, they were paying monthly rent of Rs.500/-. The lease was initially granted for a period of three years. Later, the lease was renewed and extended for a further period of three years from 16.09.2013 to 16.09.2016. This renewal was granted by the Special Officer, Ratachoty Municipality, who was vested with all the powers of Municipal Council, in the absence of regular Municipal Council. While so, by the impugned decision communicated to the petitioner the said lease was abruptly terminated.

2. Learned counsel for the petitioner contends that before such termination, no notice was issued to the petitioner. He further contends that when lease is validly renewed and is in force, it cannot be abruptly terminated. Therefore, the order of termination is also liable to be set aside. He further submitted that in accordance with Rule 12(1)(h) of the Andhra Pradesh Municipalities (Regulation of Receipts and Expenditure) Rules, 1968 (for short, 'the

Rules'), power is validly vested in the municipal council for granting renewal and in exercising of such power, renewal was granted in favour of the petitioner. Municipal Council cannot review or reduce the period of lease, more so, without following procedure or without notice to the petitioner.

3. Learned Standing Counsel for respondents submits that since no procedure was followed in issuing the impugned order of cancellation of lease, liberty can be granted to the 2nd respondent to take appropriate action as warranted by law.

4. Admittedly, power is vested in the Municipality to grant renewal of an existing lease and in exercise of such power under Rule 12 of the Rules, lease was renewed and the said lease is still subsisting. The lease was renewed by the Special Officer, Rayachoty Municipality, who was discharging the functions of the Municipal Council. The Special Officer cannot review such decisions and take unilateral decision to cancel the lease already granted, abruptly. No such power is vested with the Municipal Council to undertake such exercise. Be that as it may be, minimum requirement of principles of natural justice have not been observed and since such an extreme decision has been taken throwing out the petitioner abruptly, the impugned order is not sustainable and accordingly set aside. However, this order does not

take away the power of the Municipality to take appropriate course, as warranted by law, by following the due procedure in regulating the lease granted in favour of the petitioner.

5. With the above observation, the writ petition is allowed. No order as to costs.

6. Miscellaneous Petitions pending, if any, shall stand closed.

P. NAVEEN RAO, J

26th June 2015

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