

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.26655 of 2011

Date:24.06.2015

Between:

R.Srinivas Rao,
S/o Sri Ramulu

..... Petitioner

And:

Govt of A.P., repled by District
Collector, East Godavari District and four others.

.....Respondents

Counsel for the Petitioner: Sri K.S.Murthy

Counsel for Respondent Nos.1 & 2: None appeared

Counsel for Respondent No.3: Sri P.Anand Seshu

Counsel for Respondent Nos.4 & 5: Sri S.Subba Reddy

The Court made the following:

ORDER:

This Writ Petition is filed for a *Mandamus* to declare the action of respondent No.3 in disconnecting the power supply to the petitioner's Service Connection No.16005 in respect of H.No.62-9-8, Indiranagar, Golilapeta, Jagannaickpur, Kakinada, as illegal and arbitrary. The petitioner sought for a consequential direction to the respondents to restore the power supply after setting aside proceedings, vide Roc.No.5987/2011-G3, dated 05.09.2011, of respondent No.2.

Facts lie in a narrow compass. The petitioner is running a workshop, the nature of which is in dispute.

While the petitioner claims that it is a small carpentry shop, the impugned proceedings of respondent No.2 describe the same as a saw-mill. Be that as it may, on the complaints made by some of the residents of the colony, in which the establishment is being run by the petitioner, the District Collector and Special Officer of respondent No.2-Corporation intervened and directed the Commissioner of respondent No.2 to ensure disconnection of power supply to the petitioner's Service Connection. As an offshoot of the same, respondent No.2 has addressed a letter to respondent No.3 to disconnect the power supply to the petitioner's Service Connection. Accordingly, respondent No.3 has disconnected the power supply to the petitioner's Service Connection.

I have heard Sri K.S.Murthy, learned counsel for the petitioner, Sri Anand Seshu, learned counsel for respondent No.3 and Sri S.Subba Reddy, learned counsel for respondent Nos.4 and 5. No one represented respondent No.2 though counter-affidavit is filed on its behalf in the year 2011.

The dispute in this case centres around whether the petitioner is entitled to run the establishment, whether it is a saw mill, as alleged by respondent No.2, or a carpentry shop, as claimed by the petitioner, in a residential colony.

Even assuming that the petitioner is running the establishment contrary to law, the least that he is entitled to is a reasonable opportunity of being heard. Neither the impugned letter addressed by respondent No.2 to respondent No.3 nor the counter-affidavits filed by either of them show that an opportunity of being heard was given to the petitioner.

The law is well settled that no one can be

condemned unheard. This being the fundamental facet of the principle of administrative law, respondent No.2 was not justified in straightaway addressing impugned letter to respondent No.3 and the latter is also not justified in disconnecting the power supply to the petitioner's Service Connection without such opportunity being given to the petitioner.

For the above-mentioned reasons, respondent No.2 is directed to issue a notice to the petitioner calling for an explanation as to why he shall not be directed to shift his establishment from the existing place to another place and also take all consequential steps for removal of the establishment. Within two weeks of issue of such notice, the petitioner shall submit his explanation. Copies of the notice shall also be served on respondent Nos.4 and 5 and invite their comments/objections. On the expiry of the period of two weeks, respondent No.2 shall consider the explanation, if any, filed by the petitioner as well as the comments, if any, offered by respondent Nos.4 and 5, pass a reasoned order and communicate the same to both parties.

If the power supply was restored to the petitioner's Service Connection in pursuance of the interim order granted by this Court, the same shall be continued till the above-mentioned process is completed.

Subject to the above observations and directions, the Writ Petition is disposed of.

As a sequel to disposal of the Writ Petition, interim order, dated 22.09.2011, is vacated and WPMP.No.32890 of 2011 is disposed of as infructuous.

*JUSTICE C.V.NAGARJUNA
REDDY*

24th June, 2015
DR