HON'BLE THE ACTING CHIEF JUSTICE DILIP B.BHOSALE
AND
HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT APPEAL No.122 OF 2016

Date: 23.2.2016

Between:
G Ramachandraiah S/o Late Chenchu Ramaiah
R/o Vanjivaka village, Kota mandalam
SPSR Nellore district

…..Appellant/
Petitioner

and
The District Collector,
Nellore
Sri Potti Sriramulu Nellore district and others

…..Respondents

The Court made the following:

HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT APPEAL No.122 of 2016

PC: (Per the Hon'ble Sri Justice P.Naveen Rao)

Heard Sri P.Girish Kumar, learned counsel for appellant, leaned Government Pleader for Revenue (AP) for respondents 1 to 3 and Sri S.Lakshminarayana Reddy, learned counsel for respondent no.4.

2. This appeal is filed against the order of the learned single Judge in W.P.M.P.No. 32415 of 2014 in W.P. No. 9765 of 2011 dated 17.11.2015 declining to condone the delay of 572 days in resubmission of W.P.M.P.SR.No.7062 of 2013 in W.P.No.9765 of 2011.

3. The fair price shop dealership granted in favour of the petitioner/appellant was cancelled by the Revenue Divisional Officer vide his proceedings dated 14.7.2010. Same was confirmed in appeal by the Joint Collector vide orders dated 1.10.2010 and by the revisional order dated 9.1.2011. In the meanwhile, steps were taken to fill up the vacancy. The said writ petition was dismissed by order dated 30.11.2012. While dismissing the writ petition, learned single Judge recorded that on 27.2.2012 there was no representation on behalf of the petitioner and it was adjourned. When it was listed on 29.11.2012 there was also no representation for petitioner, therefore it was directed to be listed under the caption 'for dismissal'. Even on 13.11.2012 there was no representation. Hence, writ petition was dismissed for non prosecution. Petitioner moved W.P.M.P.(SR) No.7062 of 2013 in W.P.No.9765 of 2011 on 21.1.2013 praying to restore the writ petition and same was returned on 23.1.2013 with certain objections. In compliance of the objections, W.P.M.P. (SR) No.7062 of 2013 was represented on 2.9.2014. As there was delay of 572 days in representation, W.P.M.P. No. 32415 of 2014 was filed to condone the delay.

4. Having regard to the above facts and holding that petitioner did not show diligence in complying with the objections raised within the time granted and there was inordinate delay in resubmitting the petition, W.P.M.P.No.32415 of 2014 was dismissed. Learned single Judge held that having regard to the principle laid down by the Supreme Court in H.DOHIL CONSTRUCTIONS COMPANY PRIVATE LIMITED Vs. NAHAR EXPORTS

LIMITED AND ANOTHER[1], reason assigned for such inordinate delay in representation is not valid and holding that there was no due diligence in prosecuting the case, the petition for condonation of delay was dismissed by order dated 17.11.2015.

5. No case is made out for interfering with the well considered decision of the learned single Judge. Accordingly, the appeal is dismissed. No costs.

Miscellaneous petitions, if any, also stand disposed of.

_____

DILIP B. BHOSALE, ACJ

_____

P.NAVEEN RAO, J

Date: 23.2.2016
tvk

HON'BLE THE ACTING CHIEF JUSTICE DILIP B.BHOSALE
AND
HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT APPEAL No.122 OF 2016

Date: 23.02.2016

tvk

---

[1] (2015) 1 SCC 680