

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition No. 33912 of 2012

Order:

The first petitioner Company wanted to set up an industry for processing the garbage from the municipal solid waste and convert it into Fuel Pellets. The Government invited proposals for generation of power/organic manure from municipal solid waste and the first petitioner applied for the same. After submission of the report by the Technical Committee, the State Level Official Committee accepted the recommendations made by the Technical Committee and issued G.O.Rt.No.1425 dated 16.12.1995 allotting 400 Tonnes of garbage per day and later on 700 Tonnes per day to the first petitioner. An extent of Ac.22.47 cents of land in Gandhamguda village was handed over to the Municipal Corporation of Hyderabad for dumping the garbage. Out of the said extent, the Government allotted an extent of Ac.10.00 to the first petitioner on a thirty (30) years lease. An agreement was executed on 24.05.1997 between the Municipal Corporation of Hyderabad and the first petitioner for setting up a garbage processing plant in the first phase and a power plant in the second phase by processing 700 Tonnes of municipal garbage per day. Thereafter, a lease deed dated 16.06.1998 was entered between the first petitioner and the first respondent. The first respondent also entered into a registered lease deed on 31.05.2000. The Principal Secretary to the Government addressed a letter on 13.02.1998 to the second respondent recommending exemption of the said plant from the provisions of G.O.Ms.No.111 dated 06.03.1996. The garbage processing plant went into production in the month of December 1999 and attained

100% manufacturing capacity by August 2001, but the permission to set up power plant was refused by the A.P. Pollution Control Board by its letter dated 17.12.2000. There were some negotiations with regard to amendment to the agreement and the Municipal Corporation of Hyderabad addressed a letter on 03.08.2004 to the first petitioner calling upon it to pay a sum of Rs.23,78,340/- towards royalty charges for utilizing municipal solid waste for the period from March 2000 to March 2004 along with interest at the rate of 18% p.a. The first petitioner addressed a letter on 24.11.2004 seeking exemption from paying the royalty. However, the first petitioner filed W.P.No.26106 of 2007 and this Court granted interim stay of recovery of the amounts subject to the first petitioner paying 25% of the amount demanded. The first petitioner paid the said amount. Thereafter, the first respondent issued a notice on 09.03.2010 asking the first petitioner to pay an amount of Rs.1,09,59,590/- towards royalty charges for utilizing municipal solid waste and Rs.13.15 lakhs towards annual rent by 31.03.2010. It appears that the issue with regard to action to be taken against the first petitioner was considered by the Public Accounts Committee and the Controller and Auditor General made a comment with regard to inaction of the first respondent. In those circumstances, a notice was issued to the Managing Director of the first petitioner Company on 17.10.2012 stating as follows.

“In continuation to the correspondence cited, it is to inform that, vide reference 15th cited, it was informed by the concessionaire that, the one time settlement and obtaining NOC is in process which will be concluded within 3 to 6 months and the NOC will be submitted within 3 to 6 months to GHMC. But, the concessionaire has failed to submit the NOC as on today.

Further, it is to inform that, after the prolonged discussions, during the Public Accounts Committee (PAC) meeting held on today i.e. on 17.10.2012, the PAC has directed the Commissioner, GHMC, to initiate the following action and communicate the compliance report within (1) month, so as to drop the C&AG Audit para i.e.

- a) Retrieve the mortgaged land of 10 acres situated in Sy.No.43 of Gandhamguda immediately.
- b) Collect the due amounts to GHMC i.e. Rs.1,09,59,590/- immediately.
- c) Initiate action as per clause XX of the Agreement.

As such, the M.D., M/s. Selco International Ltd., is once again requested to take immediate action in fulfilling the above conditions within fortnight as desired by the PAC. Failing which, the action will be initiated as per the terms and conditions of the agreement through legally.

Please treat this as MOST URGENT.

Yours faithfully,
Sd/-xxxxxx
Commissioner,
Greater Hyderabad Municipal Corporation"

No counter affidavit is filed by the first respondent till today.

A reading of the above notice clearly shows that the Public Accounts Committee in its meeting held on 17.10.2012 directed the Commissioner, Greater Hyderabad Municipal Corporation to initiate action and communicate the compliance report on the audit para of the Controller and Auditor General and the same was brought to the notice of the first petitioner. Beyond communicating the said audit report, what action the first respondent is going to take was not indicated. A reading of the points raised in the audit para also show that initiation of action as per Clause XX of the agreement and collection of amount is the responsibility of the first respondent, but the first respondent has not positively specified anything directing the first petitioner to comply with.

Now, when the matter is taken up for consideration today, learned counsel for the petitioner submits that the first petitioner went before the Board for Industrial and Financial Reconstruction and the case was registered as Case No.21 of 2013. The first respondent is not a party before the said Board and the present position of the case is not known.

In the circumstances, without expressing any opinion on the merits of the case, this Writ Petition is disposed of granting liberty to the first

respondent to go through the record and take necessary action in accordance with law, if the first respondent wants to take any action pursuant to the comments made by the Controller and Auditor General and also the Public Accounts Committee, as the impugned notice does not clearly indicate the action to be taken and the same is only an intimation to the petitioner of the events that have taken place pursuant to the meeting held by the Public Accounts Committee. It is needless to observe that as and when the first respondent issue any notice, it is open to the first petitioner to submit a representation/explanation and the first respondent shall take action only after giving an opportunity to submit such representation/explanation. There shall be no order as to costs.

As a sequel thereto, the miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

Date: 16.12.2016
Nsr

A. RAMALINGESWARA RAO, J

