

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.No.17667 of 2007

O R D E R:

This writ petition filed under Article 226 of the Constitution of India, challenges the order dated 31.03.2006 passed by the third respondent in Shops & Estt.Case No.04 of 2002, filed by the first respondent herein under the provisions of Section 51 of the A.P. Shops and Establishments Act, 1988 (hereinafter called 'the Act').

2. Heard Sri Venkatram Reddy, learned counsel for the petitioner and the learned Government Pleader for the respondents 2 and 3. Despite service of notice, none appears for the first respondent.

3. The first respondent herein filed application under Section 51 of the Act against the petitioner herein for the following relief:

- a) Payment of his delayed wages as estimated or such greater or lesser amount as the authority may find to be due.
- b) Compensation amounting to Rs.1,27,210-00 for causing delay in payment of wages which has not been paid from 1st December, 2001.

4. The respondent/writ petitioner filed counter resisting the said application. The third respondent by way of an order dated 31.03.2006 allowed the said application and directed the petitioner management to deposit a sum of Rs.25,442/-. Aggrieved by the said order passed by the third respondent, the petitioner herein filed an appeal under the provisions of Section 53 (1) (a) of the Act. The second respondent/appellate authority by virtue of an order dated 15.03.2006 dismissed the said S&E A.NO.2 of 2006. The validity and the legal sustainability of the said orders passed by the

primary and appellate authorities are under challenge in the present writ petition.

4. According to the learned counsel for the petitioner, the orders passed by the respondent authorities are erroneous, contrary to law and opposed to the very spirit and object of the provisions of the Act. It is further contended by the learned counsel that despite absence of any evidence on record to show that the first respondent worked during the period December, 2001 to May, 2002 the authorities grossly erred in granting the relief in favour of the first respondent herein. It is the further submission of the learned counsel that the second respondent, being a quasi judicial authority, is obligated to assign valid and cogent reasons.

5. On the contrary, the learned Government Pleader, appearing for the respondents 2 and 3, vehemently contended that there is no illegality nor there exists any procedural infirmity in the impugned action and in the absence of the same, the questioned orders are not amenable for any judicial review under Article 226 of the Constitution of India.

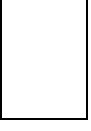
6. The material available before this Court manifestly discloses that the petitioner herein, aggrieved by the orders passed by the third respondent/ primary authority, filed a statutory appeal under the provisions of Section 53 (1) (a) of the Act. In fact, a copy of the Memo of Grounds is also placed on record along with the writ petition as a material paper. In the grounds of appeal, the petitioner herein took a specific ground that the primary authority did not take into consideration the admission made by the first respondent during the cross-examination that he did not work from the date of theft i.e., 13.11.2001. Despite taking the said plea in the grounds of appeal, as evident from the order passed by the appellate authority, the appellate authority did not consider the said aspect though referred to the

same in the beginning of the order. A perusal of the order passed by the appellate authority also makes it clear that without assigning any valid reasons, the appellate authority discarded the documents filed by the petitioner herein by saying that the same are not believable and appear to have been manipulated for the purpose of the case. The said exercise undertaken by the appellate authority, in the considered opinion of this Court, cannot be sustained in the eye of law as the second respondent, being a quasi judicial authority, is obligated to consider the material thoroughly and assign proper reasons in support of the conclusions.

7. For the aforesaid reasons, the writ petition is partly allowed, setting aside the order dated 15.03.2007 passed by the second respondent Additional Commissioner of Labour, Nalgonda/appellate authority in S&E Appeal No.2 of 2006 and consequently the appeal stands restored and the matter is remitted back to the appellate authority for fresh consideration under Section 53 (1) (a) of the Act, in accordance with law, after giving notice and opportunity to all the stake holders. It is further made clear that pending such exercise, the interim order granted by this Court in WPMP.No.22625 of 2009 shall continue to operate. As a sequel, miscellaneous petitions, if any, shall stand disposed of. There shall be no order as to costs.

A.V.SESHA SAI, J

Date:23.09.2016
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THE HON'BLE SRI JUSTICE A.V.SESHA SAI



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Dated: 23.09.2016

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