

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

WRIT PETITION No.6307 of 2010

ORDER:

This writ petition, filed under Article 226 of the Constitution of India, challenges the notices issued by the 1st respondent – A.P. Khadi and Village Industries Board.

Heard and perused the material available before this Court.

Petitioners herein are the Groundnut decorticating units in Ananthapuramu District. Earlier when the 1st respondent directed for refund of the margin money along with interest, the petitioners filed W.P.No.16837 of 2006. The said writ petition was allowed by this Court on 05-11-2008 directing the respondents to pass orders afresh after giving opportunity to the petitioners herein.

Pursuant to the said orders passed by this Court, on 08-12-2008, the 1st respondent – Chief Executive Officer issued show cause notices to the petitioners asking them to show cause as to why the margin money sanctioned and kept in S.B.I., Tadipatri branch by way of T.D.R. in the name of beneficiary should not be called back along with interest thereon on the ground that the petitioners did not construct

any shed and the shed shown to the team falls in the lands of others.

In response to the said show cause notices issued by the 1st respondent the petitioners herein submitted replies on 19-06-2009, bring to the notice of the 1st respondent various aspects in support of their claim. After receipt of the said explanations/replies the 1st respondent – A.P. Khadi and Village Industries Board issued proceedings, dated 05-08-2009, requesting the Branch Manager, State Bank of India, Tadipatri Branch to refund the margin money along with interest by way of Demand Drafts drawn in favour of the Chief Executive Officer, A.P. Khadhi and Village Industries Board, Hyderabad which was deposited in the name of entrepreneurs. In the said proceedings the Chief Executive Officer also directed that on receipt of the said demand drafts from the Branch Manager, the F.A. & C.A.O., Board Office shall take necessary action for onward transmission to the KVIC, Mumbai through the State Director, KVIC, Hyderabad and arrange to record necessary entries in the records maintained by the Accounts Section, Board Office as unutilized.

Challenging the validity and legal sustainability of the said proceedings the present writ petition came to be instituted.

This Court, while ordering rule nisi on 19-03-2010 in W.P.M.P.No.8133 of 2010 passed the following interim order:

“... .. A perusal of the impugned proceedings shows that respondent No.1 failed to give any reason, whatsoever, for rejecting the petitioners’ explanations except making a cryptic observation that they are found not fit for consideration. In view of the same, respondent No.3 is directed not to remit the amounts to respondents 1 and 2 in pursuance of the impugned proceedings pending further order.”

Responding to the *rule nisi* issued by this Court a counter-affidavit deposited by the Chief Executive Officer, A.P. Khadi and Village Industries Board, Hyderabad is filed denying the averments and allegations made in the affidavit filed in support of the writ petition and in the direction of justifying the impugned action.

There is absolutely no controversy on the reality that earlier the petitioners herein filed a writ petition before this Court questioning similar orders and this Court while allowing the said writ petition directed the respondents to afford opportunity to the petitioners and to pass appropriate orders.

Obviously in pursuance of the above said order passed by this Court on 05-11-2008, the 1st respondent issued show cause notices on 08-12-2008.

Denying the contents of the show cause notices, dated 08-12-2008 petitioners herein submitted elaborate replies/ explanations to the said show cause notices.

A perusal of the said replies/explanations vividly discloses that the petitioners herein categorically brought to the notice of the 1st respondent various aspects in support of their stand. It is also significant to note that at paragraph No.8 of the replies/explanations the petitioners herein categorically stated that there is no truth in the allegations that the industries of the petitioners are not located in the same survey numbers and that the authorities only after thorough verification as regards the location of the shed, establishment of plant and machinery by the petitioners ordered for release of margin money.

A reading of the proceedings under challenge, dated 05-08-2009 does not refer to any one of the contents of the said replies/explanations offered by the petitioners except showing the said replies/explanations as one of the references in the proceedings. The said exercise undertaken by the 1st respondent, in the considered opinion of this Court, is highly preposterous, arbitrary and unreasonable and violative of Article 14 of the Constitution of India and also not in consonance with earlier orders passed by this Court in WP No.16837 of 2006, wherein this Court directed the

respondents to afford opportunity to the petitioners. The opportunity does not merely mean mere reference to the replies/explanations and the opportunity should be in true letter and spirit. In the instant case, the same is conspicuously absent.

In view of all these reasons, this Court is inclined to remand the matter to the 1st respondent for fresh consideration by setting aside the proceedings under challenge.

For the aforesaid reasons, the writ petition is allowed, setting aside the notices, dated 05-08-2009 and the matter is remanded to the 1st respondent for fresh consideration, in accordance with law, after giving notice and opportunity of being heard to the petitioners herein and as per law. Till such exercise attains finality the interim order granted by this Court on 19-03-2000 in W.P.M.P.No.8133 of 2010 shall remain operative. There shall be no order as to costs.

The Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

A.V. SETHA SAI, J

November 22, 2016

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