

HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.25095 OF 2015

ORDER:

Heard Mr.SChalapati Rao for petitioner and Mr.Challa Gunaranjan for respondent No.8.

The writ petitioner assails order dated 03.08.2015 in Appeal No.35 of 2015 on the file of 2nd respondent. 8th respondent in the writ petition filed the appeal challenging the grant of service connection to writ petitioner vide SC. No.A9054695. The writ petitioner, as is evident from the observations of 2nd respondent in the order impugned in the writ petition, tried to persuade or pressurize the 2nd respondent to provide audience in the matter. Paragraph 14 which has bearing for the disposal of the writ petition, reads thus:

“After the matter was reserved for orders on 22.7.2015 at about 12.40 PM, at about 1 P.M., Sri Mykala Srinivas Rao, Advocate entered into the office and started demanding as to what happened to his application dt.25.7.2015 for supply of copies. When he was pointed out that he did not have authority to represent Smt.M.Sesirekha, he started in high pitched voice that he would take appropriate steps and file affidavit in the high court and started arguing with the Vidyut Ombudsman. About 2 to 3 hours later, he came along with the one Smt.M.Sesirekha and made her to say that she has not received any notice from this office and that the matter has to be reheard. She was firmly told that the matter was posted on 27.7.2015 to appear at 11.30 Am and it was her duty to appear herself or through her authorized representative and plead what ever she wanted. From this letter of the advocate, it is

clear that Smt.M.Sesirekha has received the notice from this office. The returned RPAD cover addressed to her has an endorsement to the effect that it was 'unclaimed'. This was the letter on the basis of which the advocate and Smt.M.Sesirekha started the issue here. Smt.M.Sesirekha had ample notice to appear and present her case. She has not availed the opportunity to represent her case and took recourse to absent herself and thereby prevent disposal of the matter by making allegations."

The 2nd respondent by recording the above findings proceeded to consider the merits of the appeal and finally issued the following directions:

" In the result, the Appeal is allowed:

- a. The impugned order is set aside.
- b. The Respondents are directed to cancel the SC.No.A9054695 released in the name of Smt.M.Sesirekha in the plot of the Appellant and
- c. The Respondents are directed to release a new Service Connection to the plot of the Appellant in her name, expeditiously after following the due procedure."

Hence the writ petition.

The order of 2nd respondent was suspended on 08.09.2015 and the same is subsisting as on date. The 8th respondent filed petition to vacate the order and on the principal objection of petitioner that the writ petitioner was not given opportunity is disputed and denied. The 8th respondent is justified in sustaining the findings of 2nd respondent.

After perusing the material available on record, the following conclusions are recorded:

The cause title in Appeal No.35 of 2015 does not show the writ petitioner (M.Shahireka) as one of the respondents. As late as, 22.06.2015, a notice was sought to be served on writ petitioner. The writ petitioner on 22.07.2015 engaged an Advocate, and as noted above, invited the findings from the 2nd respondent. In Paragraph 16 of the order impugned, the 2nd respondent directs cancellation of SC No.A9054695 which admittedly stands in the name of writ petitioner.

After perusing the material available on record and the order impugned in the writ petition, I am of the view that in Appeal No.35 of 2015 directions are issued by the 2nd respondent on disconnection of SC No.A9054695 in the absence of writ petitioner. It is not disputed that the writ petitioner is a necessary party to the *lis* in appeal. On the ground that the appeal is taken up without impleading the writ petitioner, the denial of opportunity to appear before 2nd respondent certainly goes to the root of the matter.

Learned counsel appearing for both parties submit that the matter can be remitted to 2nd respondent with direction to writ petitioner to cooperate with the 2nd respondent for disposal of Appeal No.35 of 2015 expeditiously. The statement is placed on record and the order impugned in the writ petition is set aside.

Appeal No.35 of 2015 on the file of 2nd respondent is restored to file and the writ petitioner is impleaded as 6th respondent. Since the petitioner is aware of the facts and circumstances of the case,

further notice is dispensed with and the 6th respondent/writ petitioner herein is directed to file vakalat within two weeks from today. Thereafter, the 2nd respondent hears the matter within three weeks therefrom, passes orders in accordance with law and facts of the case.

The writ petition is ordered as indicated above. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

S.V. BHATT,J

Date: 24.11. 2016
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