

THE HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

WRIT PETITION No.5848 of 2016

ORDER:

Heard learned Senior Counsel for the petitioner and learned Government Pleader for Revenue.

Since the issue involved is purely on a question of law, which was already adjudicated by this Court, I am unable to sustain the impugned order dated 18.08.2015 – Ex.P1, passed by learned Chief Commissioner of Land Administration, Hyderabad, the 1st respondent.

Through the order, dated 14.03.2014 – Ex.P2, passed by the Joint Collector – II, Ranga Reddy District, the 2nd respondent, the petitioner's No Objection Certificate (NOC) granted to M/s. Hindustan Petroleum Corporation Limited, which is the lessor of the petitioner, was kept in abeyance. The same was questioned by the petitioner in W.P.No.10824 of 2014. Learned Single Judge disposed of the said Writ Petition on 24.06.2014 directing the petitioner to avail the remedy of appeal under Rule 154 (2) of the Petroleum Rules, 2002 (for short, 'the Rules'). The petitioner accordingly filed the appeal, but the same was returned as not maintainable. At that stage, the petitioner questioned the order of learned Single Judge in W.A. (SR).No.156945 of 2015 along with an application in W.A.M.P.No.2212 of 2015 seeking condonation of delay. The appeal and the application were dismissed by the Division Bench leaving it open for the petitioner to question the impugned order in appropriate proceedings. Consequently, the order of learned Single Judge in W.P.No.10824 of 2014 stands confirmed and the same has attained

finality. The impugned order of the 1st respondent, dated 18.08.2015, is now questioned in the present Writ Petition. Therefore, it is to be noticed that the 1st respondent was of the opinion that the order of the 2nd respondent neither declines nor grants NOC and keeping the same in abeyance would not fall within the appellate remedy under Rule 154 (2) of the Rules, which is questioned in this Writ Petition.

It is appropriate at this stage to note paragraph Nos.11 and 12 of the order of learned Single Judge in W.P.No.10824 of 2014, which read as under:

“11. Rule 154 (2) of the Petroleum Rules, 2002 reads as under:

“154. Appeals:

(1) ...

(2) An appeal against any order of the District Authority refusing to grant or cancelling a no-objection certificate shall lie to the authority which is immediately superior to the said District Authority.”

12. NOC which was granted on 28.05.2012 was kept in abeyance by the first respondent by order dated 14.03.2014, which amounts to non-granting of NOC or temporary cancellation of NOC, as such, petitioner can avail alternative remedy of appeal under Rule 154 (2) of Rules, 2002, as contended by the learned counsel for the respondents 3 and 4. the petitioner can avail alternative remedy of appeal under Clause 31 of the Andhra Pradesh Petroleum Products (Licensing and Regulation of Supplies) Order, 1980, which is as under:

“**31. Appeal:** (1) Any person aggrieved by any order to grant, reissue or renew a licence, or certificate or supply card or by any order cancelling or certificate or supply card or by order cancelling or suspending a licensee or certificate or forfeiting the security deposited by the licensee or holder of certificate under the provisions of this order, may prefer an appeal within thirty days from the date of receipt of such order

by him.

- (a) To the Commissioner, if such order is that of the Chief Rationing Officer, Hyderabad or the Collector.
 - (b)
 - (c) To the Collector of the District concerned, if such order is that of a Revenue Divisional Officer or District Supply Officer; and
 - (d)
Provided that the appellate authority may admit an appeal preferred after the expiry of the said period or thirty days, if the appellant satisfies the appellate authority that he had sufficient cause for not preferring the appeal within the said period.
- (2) The appellate authority shall, after giving an opportunity to the appellant to be heard, pass such order as he may think fit, confirming, modifying or annulling the orders appeal against.
- (3) Pending disposal of the appeal, the appellate authority may direct that the orders against which an appeal is preferred shall not take effect until the appeal is disposed of.”

It is therefore evident that this Court has adjudicated on the nature of the order of the 2nd respondent by holding that keeping the NOC in abeyance “amounts to non-granting NOC or temporary cancellation of NOC, as such, petitioner can avail alternative remedy of appeal under Rule 154 (2) of Rules 2002.” The said finding of learned Single Judge, as confirmed by the Division Bench, therefore is binding on the 1st respondent and the appeal on the merits cannot be rejected on the ground that it is not maintainable and the 1st respondent cannot sit in judgment of this Court, as extracted above.

In view of the same, the impugned order is set aside. The 1st respondent shall entertain the appeal and after notice to all the

parties, hear and decide the same on merits, expeditiously.

The Writ Petition is accordingly allowed. There shall be no order as to costs.

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

VILAS V.AFZULPURKAR, J

Date:24.02.2016

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