

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

Writ Appeal No.1280 of 2016

JUDGMENT: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the learned Single Judge in W.P.No.33864 of 2016 dated 30.09.2016. For the sake of convenience, Parties shall hereinafter be referred to as they are arrayed in the Writ Petition.

The petitioner invoked the jurisdiction of this Court, under Article 226 of the Constitution of India, to set aside the order passed by the Joint Collector and Additional District Magistrate (Civil Supplies), Guntur dated 27.07.2016, the order passed by the Revenue Divisional Officer dated 31.10.2015, and the order passed by the Tahsildar dated 17.09.2016.

The Revenue Divisional Officer caused an enquiry into six charges against the petitioner and, thereafter, cancelled his fair price shop authorisation by his order dated 31.10.2015. Aggrieved thereby, the petitioner carried the matter in appeal to the Joint Collector who, by his order dated 27.07.2016, dismissed the appeal upholding the order passed by the Revenue Divisional Officer cancelling the petitioner's fair price shop authorisation. Thereafter the Tahsildar, by his proceedings dated 17.09.2016, made alternate arrangements entrusting the subject fair price shop to the 6th respondent.

Aggrieved by the order passed by the Joint Collector, the petitioner preferred a revision to the District Collector, Guntur along with an application to suspend both the orders passed by the

Revenue Divisional Officer and the Joint Collector. The petitioner's revision, and the stay application filed therewith, are said to be still pending before the District Collector. The petitioner filed W.P.No.33864 of 2016 which resulted in the order under appeal being passed.

In the order under appeal, the learned Single Judge held that, at the time of arguments, the only relief sought by the petitioner was to direct the District Collector to dispose of the revision filed by him as expeditiously as possible; in view of the submissions made by both the counsel, the Court was not inclined to go into the merits of the main case; and if he expressed any opinion, on the merits of the main case, the same might cause prejudice to one of the parties to the revision petition. The writ petition was disposed of directing the District Collector to dispose of the revision, filed by the petitioner, as expeditiously as possible and, in any event, within a period of six weeks from the date of receipt of a copy of the order.

Sri K.Ramakoteswara Rao, learned counsel for the petitioner, would submit that the petitioner had put forth his arguments on merits, and did not limit his submission only for a direction to the District Collector to dispose of the revision within a specified time frame; the charges held established against the petitioner are minor in nature and are not such as to warrant imposition of the extreme penalty of cancellation of authorisation; as the petitioner had the benefit of stay pending disposal of the appeal by the Joint Collector, the Learned Single Judge should have granted stay pending disposal of the revision also; and the learned Single Judge

had erred in not granting stay pending disposal of the revision, and in failing to adjudicate the petitioner's claim on its merits.

As noted hereinabove, the order under appeal records that the only relief sought for by the petitioner, at the time of arguments, was to direct the District Collector to dispose of the revision filed by the petitioner as expeditiously as possible. In ***State of Maharashtra vs. Ramdas Shrinivas Nayak***¹ the Supreme Court held that public policy barred, and judicial decorum restrained, Courts from doubting the judicial record; the statements of Judges, recorded in their judgments, are bound to be accepted as to what transpired in Court; the statement of the Judges cannot be allowed to be contradicted by the statements at the Bar, or by affidavit and other evidence; if the Judges say in their judgment, that something was done, said or admitted before them, that has to be the last word on the subject; the statements of fact as to what transpired at the hearing, recorded in the judgment of the Court, are conclusive of the facts so stated, and no one can contradict such statements by affidavit or other evidence; if a party thinks that the happenings in Court have been wrongly recorded in a judgment, it is incumbent upon the party, while the matter is still fresh in the mind of the Judge, to call the attention of the very Judge, who had made the record, to the fact that the statement made, with regard to his conduct, was a statement that had been made in error; this was the only way to have the record corrected; and, if no such step is taken, the matter must necessarily end there.

¹ AIR 1982 SUPREME COURT 1249

In the light of the law declared in aforesaid judgment of the Supreme Court, it is wholly impermissible for us to examine whether or not contentions were put forth, before the learned Single Judge, on merits since the order of the Learned Single Judge records that the only relief sought, during arguments, was for the revision petition to be disposed of early. As this is the only contention which is stated, in the order under appeal, to have been urged before the learned Single Judge, it would be wholly inappropriate for us to examine the contentions urged by Sri K. Ramakoteswara Rao on merits. It is necessary to bear in mind that interference, in an intra-court appeal under Clause 15 of the Letters Patent, would be justified only if the order under appeal suffers from a patent illegality. We see no such error in the order under appeal.

Suffice it if the Writ Appeal is disposed of directing the District Collector to dispose of the stay application, or the revision itself, filed by the petitioner within two weeks from the date of receipt of a copy of this order.

The Writ Appeal stands disposed of accordingly. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(A.SHANKAR NARAYANA, J)

02nd December, 2016

Note: Issue C.C. by 06.12.2016.

(B/o)

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