

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

Writ Appeal No.1155 of 2016

JUDGMENT: (per Hon'ble the Acting Chief Justice Sri 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.15963 of 2016 dated 20.10.2016.

In the order under Appeal, the learned Single Judge noted that, though various grounds were raised in the Writ Petition, the Learned Counsel for the petitioner had restricted his prayer seeking a direction to the 4th respondent to consider and dispose of the representation submitted by the petitioner on 30.04.2016, as required under Section 6 of the Explosives Act, for renewal of license bearing No.3 of 2007. The learned Single Judge also noted the submission of the Learned Government Pleader for Industries and Commerce that the 4th respondent would consider the said application in accordance with law, provided some time is given. Thereafter the Learned Single Judge, after taking note of the fact that the petitioner had used the said premises for storing fire crackers, and the 4th respondent-Joint Collector was required to act upon the representation made by the petitioner on 30.04.2016, directed the Joint Collector to consider the same, after obtaining necessary oral instructions from the concerned departments, in accordance with law by 5.30 P.M on 24.10.2016. The Writ Petition was, accordingly, disposed of.

The order of the Joint Collector dated 24.10.2016 is placed before us by the Learned Government Pleader for Revenue. The said order reads as under:

“Keeping in view of the recommendations of Revenue Divisional Officer and Sub-Divisional Magistrate, Guntur and Commissioner, APIIC, IALA and having considered the both recommendations and keeping in view the public safety, the licence issued earlier in Form-24 in favour of Sri Batchu Rama Subba Rao S/o.Venkateswarlu of Sattenapalli is hereby Cancelled.”

Sri V.Ganesh Bhujanga Rao, Learned Counsel for the appellant, would submit that, if the application submitted under the Explosives Act, 1884 is not considered within the specified time frame, it must be then deemed that permission was granted; while the order records that it was passed on 24.10.2016, the order was, in fact, passed only today; and, as such, a direction should be issued to the respondents herein to permit the appellant to sell crackers in the subject premises.

An Appeal under Clause 15 of the Letters Patent would lie only if the order, passed by the Learned Single Judge, suffers from a patent illegality. It is not even contended by Sri V.Ganesh Bhujanga Rao, Learned Counsel for the appellant, that the order of the Learned Single Judge suffers from any such infirmity. The submission regarding deemed permission cannot be canvassed in proceedings under Clause 15 of the Letters Patent, as the order of the Learned Single Judge records that the Learned Counsel for the petitioner had restricted his prayer for a direction to the 4th respondent to consider and dispose of the petitioner's representation dated 30.04.2016. Having sought a direction from the Learned Single Judge to have his representation dated 30.04.2016 considered by 5.30 P.M on 24.10.2016, it is not now open to the appellant-writ petitioner to contend that he is entitled to run the shop on the ground that his application dated 30.04.02016 was not disposed of within the specified time frame.

Non-compliance with the order of the Learned Single Judge, even if true, would only enable the petitioner to initiate proceedings under the Contempt of Courts Act, and not to prefer an appeal under Clause 15 of the Letters Patent. A feeble submission is made that certain contentions, urged on behalf of the petitioner, were not considered by the Learned Single Judge. Even if it is presumed that there is some basis in such a submission, the appellant's remedy is only to file a petitioner seeking review of the order of Learned Single Judge, and not to prefer an appeal under Clause 15 of the Letters Patent.

The Writ Appeal, as filed, is wholly misconceived and is, accordingly, dismissed with costs of Rs.10,000/- (Rupees Ten Thousand only) which the appellant-writ petitioner shall pay to the 1st respondent-State of Andhra Pradesh within four weeks from today, failing which it is open to the first respondent to recover the said amount in accordance with law. The miscellaneous petitions pending, if any, shall also stand dismissed.

RAMESH RANGANATHAN, ACJ

A.SHANKAR NARAYANA, J

Date:28.10.2016

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