

THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.38520 of 2012

ORDER:

Heard Mr.S.Niranjan Reddy, learned counsel for the petitioner and Sri L.Prabhakar Reddy, learned Standing Counsel for the 1st respondent.

The petitioner challenges Lr.No.IP/Yelumala/P.No.6 & 7/2012, dated 23-11-2012 as illegal, arbitrary and unconstitutional.

The operative portion of the impugned letter reads thus:-

"With reference to your representation cited, APIIC Limited has considered your request for restoration of allotment of plot Nos.6 & 7 part of Common Facilities area of land and railway siding, Industrial Park, Yelumala. Extension of time is granted upto 31-12-2013 for implementation of the project in the said land as a last chance subject to the following conditions :

1. You should pay penalty at 11% on present land cost at one and half times which works out to Rs.3,99,16,800.00 on or before 10-12-2012 since the said land was allotted for commercial purpose.

The details of calculations are as follows:-

Area		120000.00 sq. met
Present Land Rate		Rs.2016.00 per Sq.Mt.
One and Half Rate i.e.		Rs.3024.00 per Sq.Mt.
Hence the total Cost	120000 x 3024 =	Rs.36,28,80,000.00
11% of the land cost	=36,28,80,800 x 11%	Rs.3,99,16,800.00

2. You should not insist for (1) allotment of additional land (2) right of way of the proposed road between M/s.SAIL and Allcargo and (3) diversion of existing road between railway siding and SAIL with parabolic/circular curve, since it is not feasible as per the layout conditions of the said Industrial Park and other allottees of the Industrial Park are strictly objecting for the same. You should lay railway track within the allotted land."

On 14-12-2012, this court passed the following interim order:-

"Heard the learned counsel for the petitioner, learned Standing Counsel for A.P.I.I.C. and the learned Standing Counsel for South Central Railways.

The petitioner has been allotted Acs.30.00 of land for establishing a multi-purpose logistics with facilities of roads and railways. The correspondence went on for allotment of a piece of land adjoining the railway line. The Corporation agreed to allot the required land, on that the petitioner shall surrender equal extent in the other portion. On the strength of such commitment, the petitioner obtained clearance from South Central Railways.

Hardly within one week from the day on which the petitioner got clearance from the Railways, the Corporation visited the petitioner with the order of cancellation of allotment. On a representation made by the petitioner, the cancellation is set aside and the allotment is restored by imposing two

conditions, namely that the petitioner shall pay a sum of Rs.4 crores as penalty, and that it shall not be entitled to the land for laying the railway siding which the Corporation itself committed to the petitioner.

This Court *prima facie* finds that there was no justification for the Corporation in imposing the condition that the petitioner shall not be entitled to the allotment of land by the side of the Railway line. Denial of the same would result in the project undertaken by the petitioner, becoming totally unviable.

Hence, there shall be interim stay as prayed for, on condition that the petitioner shall pay a sum of Rs.2 crores within a period of two weeks from today; and the state of affairs as they stood before the order of cancellation shall be restored.”

The 1st respondent filed W.V.M.P.No.499 of 2013.

At the time of hearing, the counsel for petitioner submits that during pendency of the writ petition, the petitioner represented to the 1st respondent for allotment of alternative/additional land and the same is considered by the 1st respondent. According to him, the conditions imposed in the impugned letter dated 23-11-2012 are onerous, illegal and without authority and if the petitioner is allowed to file a representation before the 1st respondent for reconsidering the conditions imposed in the impugned letter, dated 23-11-2012; however, by keeping the interim order in force, the petitioner would be satisfied. He further contends that the issue in the writ petition or request before the 1st respondent is required to be comprehensively considered for the development of petitioner industry and related infrastructure.

Mr.L.Prabhakar Reddy, Standing Counsel submits that he is not aware of any representation filed by the petitioner as stated by petitioner counsel, however submits that, particularly having regard to the fact that the interim order is in force from 14-12-2012 till date, the petitioner can be given an opportunity to comprehensively represent to 1st respondent against the grievances, if any, under the impugned letter dated 23-11-2012 and appropriate decision can be taken.

I am satisfied that the writ petition can be disposed of by this order.

1) The petitioner is given four weeks time from the date of receipt of a copy of this order to file representation against the letter, dated 23-11-2012 to 1st respondent.

2) The 1st respondent is directed to consider and pass appropriate orders not only on the representation permitted to be made by this order but also on the representation filed by the

petitioner for allotment of additional land.

2) The petitioner is given liberty to communicate this order along with its representation for timely consideration by the 1st respondent.

3) The interim order granted on 14-12-2012 is directed to be in force till consideration and disposal by the 1st respondent.

4) The petitioner in the event not satisfied with the outcome of consideration by 1st respondent, it is free to work out its remedies in accordance with law.

The writ petition is disposed of accordingly. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

S.V.BHATT, J

Date:21-03-2016
Prv

THE HON'BLE SRI JUSTICE S.V.BHATT

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Dated 21-03-2016

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