

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

WRIT APPEAL No. 1185 of 2016

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

The order under appeal required the appellants to refund the application fee, deposited by the respondents-writ petitioners for the A4 shop notified at Gazette Sl. No. 276 in Mutukula Village, Pullala Cheruvu Mandal, Prakasam District, within six weeks from the date of receipt of a copy of the order, with interest at 9% per annum from the date of making the deposit till the date of payment.

The writ petition was disposed of on the submission of Learned Counsel on either side that the issue, raised in the writ petition, was covered by the judgment in W.P. No.40260 of 2015 dated 21.12.2015.

Learned Government Pleader for Excise would put forth two contentions. Firstly that, while the order in W.P. No. 40260 of 2015 dated 21.12.2015 required the excise authorities to refund the application fee and the 5% licence fee paid by the petitioners at the time of submission of their application in respect of the notification, no order was passed therein directing refund of the amount with interest, and, as the submission on behalf of the Government was only that the subject matter is covered by the judgment in W.P. No. 40260 of 2015 dated 21.12.2015, the learned Single Judge erred in granting 9% interest in the order under appeal. The other submission of the learned Government Pleader is that failure of the appellants to refund the money is because of the interim order passed by a Division Bench in W.P. No. 29766 of 2015 dated

28.9.2015 in respect of the very same shop, and in view of the prohibition against the subject A4 shop being allowed to open; the selection process has not as yet been completed; and, in view of the aforesaid order of the Division Bench, the said process is still pending.

In so far as the second contention is concerned, the respondents-writ petitioners herein are not parties to W.P. No. 29766 of 2015. While the inability of the appellants to finalise the selection process may well be because of the interim order passed in W.P. No. 29766 of 2015 dated 28.9.2015, it is not as if respondents-writ petitioners are seeking permission to carry on business in the subject A4 shop. They have merely sought refund of the fee paid by them earlier for participating in the selection process. The aforesaid interim order of the Division Bench would not justify the appellants denying refund of the money paid by the respondents-writ petitioners for participating in the selection process, when the selection process itself has come to a grinding halt.

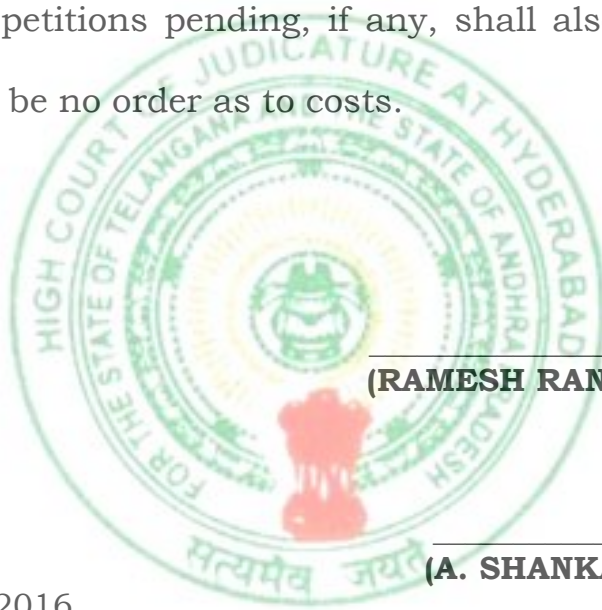
We find considerable force in the submission of the learned Government Pleader that the learned Single Judge ought not to have granted 9% interest when it was agreed by both sides that the subject matter was covered by the judgment in W.P. No. 40260 of 2015 dated 21.12.2015, wherein interest was not granted, more so as the respondents-writ petitioners did not even seek the relief of payment of interest; and the relief sought for in the writ petition was limited only to the grant of refund.

The order under appeal is set aside to the limited extent the learned Single Judge granted interest at 9% per annum for refund

of the amount. In all other respects, the order of the learned Single Judge is affirmed.

Needless to state that the order now passed by us would not preclude the respondents-writ petitioners from availing their remedy of filing a Civil Suit before the competent Civil Court seeking payment of interest for belated refund, if any. The appellants shall refund the principal amount due, in accordance with the directions of the learned Single Judge, within four weeks from today.

The Writ Appeal stands disposed of accordingly. The 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)

10th November, 2016

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Date: 10.11.2016

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