

**HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO**

**W.P.No.6841 of 2015**

**ORDER**

**This writ petition was filed seeking to restrain the 1<sup>st</sup> respondent from proceeding further in Recovery Application No.16 of 2014 in S.E.No.3 of 2010, dated 30.10.2014.**

**Challenging the termination order dated 15.6.2010 on the ground of certain allegations, the second respondent preferred an appeal before the first respondent and the same was numbered as S.E.No.3 of 2010. The first respondent allowed the appeal vide order dated 17.12.2013 directing reinstatement of the 2<sup>nd</sup> respondent into service with back wages and other attendant benefits. The second respondent submitted an application on 31.01.2014 requesting for reinstatement and accordingly, he was reinstated into service on 17.09.2014 and was paid an amount of Rs.6,34,160/- towards back wages. After receipt of the said amount, he filed another application under Section 48 (5) of the A.P. Shops and Establishments Act,1988 (for short 'the Act'), claiming an additional amount of Rs.2,43,576/- in Recovery Application No.16 of 2014. In the said application, the petitioner**

was issued a notice and it submitted reply on 6.11.2014 challenging the jurisdiction of the first respondent to entertain the said application. The main ground taken in the reply is that in the absence of any specific order directing payment of the amount, the application under Section 48 (5) of the Act is not maintainable. Challenging the proceedings before the first respondent, the present writ petition is filed.

This Court by order dated 17.3.2015 granted stay in view of payment of Rs.6,34,160/- and reinstatement of the second respondent into service. Seeking vacation of the said order, the second respondent filed WVMP No.1694 of 2015.

Learned counsel appearing for the vacate stay petitioner-second respondent submits that pursuant to the show cause notice, the petitioner submitted objections and the matter is pending before the first respondent.

In view of pendency of the matter before the first respondent, this Court is not inclined to go into the merits of the case, but liberty is given to the petitioner to raise all objections including point of jurisdiction for consideration before the first respondent and it is for the first respondent to consider the said objections and pass appropriate

orders in Recovery Application No.16 of 2014. Since the first respondent is seized of the matter, this Court purposely declined to record a finding with regard to the entitlement or otherwise of the second respondent for the amounts claimed by him and contentions raised by the petitioner in the present writ petition.

Accordingly, the Writ Petition is disposed of.  
No costs.

Miscellaneous petitions, if any, pending shall stand closed.

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JUSTICE A.RAMALINGESWARA RAO

*29<sup>th</sup> August, 2016*  
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