

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.1318 of 2016

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ORDER:

This Writ Petition is filed challenging the proceedings dated 31.10.2015 issued by respondent No.2-District Collector, on the ground that there was no notice given to the petitioner, before he was being asked to shift the godown from the existing licensed premises.

When the matter came up for admission on 19.01.2016, learned Government Pleader for Civil Supplies sought time to get instructions. Today, also he sought time.

Learned counsel for the petitioner submits that the time stipulated by respondent No.2 in the impugned proceedings is going to be expired in this month and sought interim stay.

Heard.

A perusal of the impugned proceedings, though termed as show cause notice, shows that it is an order directing the petitioner to shift the godown to safer place within a period of six months, otherwise, action would be taken as per the provisions of A.P.Petroleum Products (Licensing and Regulation of Supplies) Order, 1980 issued under the Essential Commodities Act, 1955.

A bare reading of the above proceedings does

not indicate any prior notice having been issued to the petitioner. The said proceedings was issued on account of an order made by Lokayuktha, Hyderabad on a complaint filed by M.Sammaiah, R/o Nallabelli Village and Mandal, Warangal District. In the said complaint, the said Sammaiah appeared to have alleged that the petitioner had established gas agency and godown by producing false documents at the time of issue of grant of permission and with regard to the same, he made a complaint dt.02.04.2014 to the Tahsildar, Revenue Divisional Officer, Narsampet, Joint Collector, Warangal, but no action was taken. Basing on the same, the Tahsildar submitted his report to the Joint Collector, Warangal, wherein it was stated that the petitioner's godown is surrounded by rice mill on South, Airtel Tower is on west side, Idea tower is on north-west corner, Electrical Transformer is southern side and residential houses are on South and North sides.

It is the contention of the learned counsel for the petitioner that it has not been denied that none of the material that was the basis for passing the impugned proceedings and directing the petitioner to shift the godown to safer place, were issued to the petitioner, thereby giving him an opportunity to contradict/rebut the same and further, the petitioner was also not given an opportunity of hearing.

It is not in dispute that the petitioner has been carrying on L.P.G. distribution in the premises from 2010 and necessary permissions and license have been issued by the respective authorities.

The direction given by respondent No.2 in the impugned proceedings is in violation of fair play and principles of natural justice offending the right to livelihood, as guaranteed under Article 21 of the Constitution of India and right to carry on the lawful business in rightful manner, subject to reasonable restrictions.

In the above circumstances, the impugned order, though termed as a show cause notice, cannot be sustained and the same is set aside.

Accordingly, this Writ Petition is allowed. No order as to costs.

Miscellaneous Petitions, if any pending in this writ petition shall also stand closed.

CHALLA KODANDA RAM,J

Date:07.04.2016.
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