

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.4570 of 2008

ORDER:

Heard learned counsel for the petitioner and Sri B.Mayur Reddy, learned Standing counsel for the respondents - State Road Transport Corporation.

In the present Writ Petition, challenge is to the final order of cancellation of licence passed by the Regional Manager, Andhra Pradesh State Road Transport Corporation, Khammam, vide proceedings No.01/122/(27)05-RM:KMM, dated 20.02.2008.

The petitioner is a licensee of DOT shop/stall No.3 at APSRTC Bus Station, Bhadrachalam, Khammam District. Pursuant to a notification issued by the respondent Corporation, the petitioner was declared as successful bidder and the respondent Corporation allotted the subject shop on a monthly licence fee of Rs.2,550/- apart from collecting a sum of Rs.1,80,000/ towards non-refundable deposit for construction of the said stall. A deed of licence was also entered into on 05.10.2006 for a total period of 20 years, commencing from 05.10.2006 to 04.10.2026. Pursuant to the order, dated 02.04.2007, passed by this Court in W.P.No.26169 of 2006, the Regional Manager, 1st respondent, issued show cause notice bearing No.E4/122)27)/05-RM:KMM, dated 27.11.2007, proposing to cancel the petitioner's licence. In response to the said show cause notice

the petitioner submitted his explanation/reply on 14.12.2007. Eventually, the Regional Manager, 1st respondent, by way of the impugned final order, dated 20.02.2008, cancelled the subject licence while asking the petitioner to vacate the stall and to give vacant possession.

This Court, while ordering Rule Nisi, on 04.03.2008, in WPMP.No.5946 of 2008 granted interim suspension of the impugned final order, dated 20.02.2008. Subsequently, this Court dismissed WVMP.No.2902 of 2009 filed by the respondent Corporation on 24.08.2010 by making the above interim order absolute.

According to the learned counsel for the petitioner, the impugned order is highly illegal, arbitrary, violative of principles of natural justice and contrary to the orders passed by this Court in W.P.No.26169 of 2006. The learned counsel submits further that without affording opportunity of hearing to the petitioner, the impugned order came to be passed by the 1st respondent.

Per contra, it is vehemently contended by the learned Standing counsel for the respondents that there is no illegality nor there is any infirmity in the impugned order and in the absence of the same, the present writ petition is not maintainable and the petitioner is not entitled for any relief from this Court under Article 226 of the Constitution of India. It is further contended that since the 1st respondent passed the impugned order, after giving show cause notice and

opportunity, the same does not warrant any interference of this Court.

There is absolutely no controversy on reality that the petitioner is the licensee of the subject shop of the respondent Corporation. It is not in dispute that a deed of licence was entered on 05.10.2006 for a period of 20 years, commencing from 05.10.2006 to 04.10.2026. Obviously, as a consequence of the orders of this Court in W.P.No.26169 of 2006, the 1st respondent initiated the action under challenge and issued show cause notice and after submission of explanation, passed the impugned order, canceling the licence. In this context, it may be pertinent to note that this Court disposed of W.P.No.26169 of 2006 by way of an order, dated 02.04.2007, directing the respondents to consider the representation, dated 12.09.2006, made by the petitioner therein. This Court also directed the respondents to pass a speaking order, after giving notice and opportunity of hearing to all the affected persons.

A perusal of the order under challenge clearly discloses that the 1st respondent except showing the explanation of the petitioner as one of the references did not advert to the contents of the explanation offered by the petitioner. It is the specific case of the petitioner in the affidavit filed in support of the writ petition that as directed by this Court no opportunity of hearing was given to him before passing the order under challenge. The said statement is not denied in

the counter affidavit. This action in the considered opinion of this Court cannot be sustained and the same is contrary to the orders of this Court in W.P.No.26169 of 2006 and also in violation of principles of natural justice.

In the considered opinion of this Court, in view of the above reasons, the matter requires fresh consideration by the respondents.

For the aforesaid reasons, the writ petition is allowed, setting aside the final order of cancellation, dated 20.02.2008, passed by the 1st respondent and the matter is remanded to the 1st respondent for fresh consideration in accordance with law, after giving notice and opportunity of hearing to the petitioner and all the stake holders.

Miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

Date: 06.06.2017
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