THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE MS JUSTICE J.UMA DEVI

<u>Writ Appeal No.1305 of 2017</u>

<u>JUDGMENT:</u> (Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan)

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the Learned Single Judge in W.P.No.25755 of 2017 dated 11.08.2017. The appellant filed the writ petition questioning the proceedings of the Revenue Divisional Officer dated 12.07.2017 cancelling her authorisation for shop No.10 of Velamakothuru Village, Tuni Mandal, East Godavari District.

A show cause notice dated 13.02.2017 was issued to the appellant-writ petitioner calling for her explanation. The appellant submitted a detailed explanation on 10.03.2017. Except to state that the appellant-writ petitioner had given her explanation, and the said explanation was not convincing, no reasons are assigned in the impugned order as to why the Revenue Divisional Officer found the appellant-writ petitioner's explanation not convincing.

Principles of natural justice require reasons to be assigned for arriving at a particular decision. As the Revenue Divisional Officer has failed to assign any reasons, the order impugned in the writ petition is in violation of principles of natural justice. While the appellant- writ petitioner has the remedy of preferring an appeal against the order of the R.D.O, it is only if the original authority passes a reasoned order, can the said order be examined in appeal by the appellate authority. While the appellate authority's power extends even to an examination of questions of fact, he cannot be called upon to discharge the functions of the original authority, and to assign reasons which the Revenue Divisional Officer had failed to.

While the Commissioner of Civil Supplies has, no doubt, issued a circular on 28.09.2015, it is wholly unnecessary for us to examine whether the circular instructions of the Commissioner can be enforced in proceedings under Article 226 of the Constitution of India, as an order cancelling the appellant-writ petitioner's authorisation could not have been passed without assigning reasons why the original authority (the Revenue Divisional Officer) found the appellant-writ petitioner's explanation to the show cause notice unconvincing.

On the short ground that it is bereft of reasons, the impugned order is set aside. The Revenue Divisional Officer shall, at the earliest and after affording the appellant-writ petitioner an opportunity of a personal hearing, pass a reasoned order afresh and in accordance with law with utmost expedition and, in any event, not later than one month from the date of receipt of a copy of this order. It is made clear that, in case the appellant-writ petitioner does not avail the opportunity of a personal hearing, it is open to the Revenue Divisional Officer to proceed and pass an order afresh, on the basis of the explanation already submitted by her.

The Writ Appeal is disposed of accordingly. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(J.UMA DEVI, J)

11th September, 2017
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