

THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.29025 of 2015

ORDER:

Heard Mr.K.Chidambaram for petitioner, learned Government Pleader for Medical, Health and Family Welfare for respondent Nos.1 to 3 and Mr.P.Nagendra Reddy for respondent No.4.

2. The issue for consideration arises under A.P. Allopathic Private Medical Care (Registration and Regulation) Rules, 2002 (for short, 'the Rules').

3. Counsel for petitioner restricted his submission against the infraction in following Rule 8 of the Rules.

4. The circumstances relevant for disposing of writ petition are briefly stated thus:

The petitioner applied for **renewal** of licence under Section 7(3) of Telangana Allopathic Private Medical Care Establishments (Registration and Regulation) Act, 2005. Respondent No.3 through order Rc.No.563/SOFW-HR/2015, dated 10.04.2015, rejected the application. The ground for rejection is that the petitioner failed to submit a lease agreement in his favour for the premises, where he runs the clinic.

5. On 02.05.2015, the petitioner filed appeal under Rule 8 of the Rules. The 2nd respondent through order No.4014/D1/2015, dated 21.08.2015, dismissed the appeal. Hence the writ petition.

6. Mr.Chidambaram contends that Rule 8 not only provides for right of appeal, which is a substantive right to an aggrieved party and that the word used in Rule 8 is to receive and adjudicate the appeal. Further, sub-rules (d) and (e) deal procedure viz., affording opportunity of hearing to appellant before the 2nd respondent. The definite case of petitioner is that on 21.08.2015, the date on which the appeal is said to have been heard, no hearing has taken place, much less participation of petitioner or his counsel. Therefore, the order of appellate authority is illegal.

7. I have perused the order, dated 21.08.2015. *Prima facie*, I am of the view that the appeal has been disposed of without following the requirement of Rule 8 of the Rules.

8. The counsel appearing for respondents consent to setting aside the order of the appellate Authority, remanding the matter to 2nd respondent for fresh consideration and disposal in accordance with law. All the contentions on merits are left open for consideration by the 2nd respondent. The 2nd respondent fixes a date for hearing of appeal within six weeks from the date of receipt of a copy of this order and within a further period of six weeks disposes of the appeal.

The interim order granted by this Court, on 21.09.2015, is directed to be continued till the appeal is heard and disposed of.

9. With the above direction, the writ petition is disposed of.

10. Miscellaneous petitions, if any, pending, shall stand closed. No costs.

S. V. BHATT, J

1st September 2017

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