

THE HONOURABLE JUSTICE A.V.SESHA SAI

WRIT PETITION No.33106 of 2017

ORDER:

Heard learned counsel for the petitioner and Ms.Sundari R.Pisupati, learned Standing Counsel for TTD.

The order passed by the Estate Officer, Office of the Executive Officer, TTD, Tirupathi vide proceedings in Roc.No.Rev.2/8151/AEO(Rev)/Tpt/2016, dated 26.09.2017, is under challenge in the present Writ Petition.

Pursuant to the tenders called for by the respondents for running the parking area at Alipiri Tourist Bus Stand, Tirupathi, by collecting parking charges from two-wheelers and other vehicles for a period of one year, vide Tender Notification in Roc.No.Rev.2/8151/AEO(Rev)/Tpt/2016, dated 15.1.2.2016, petitioner herein emerged as a successful bidder and the respondents awarded the contract vide proceedings dated 29.12.2016 for a period of one year. According to the petitioner, the respondents handed over the physical possession of the subject parking area on 05.01.2017.

Earlier, the agent of the Joint Executive Officer of the respondent-temple vide proceedings in Roc.No.Rev.2/8151/AEO (Rev)/Tpt/2016, dated 06.07.2017, terminated the licence granted in favour of the petitioner herein on certain alleged lapses on the part of the petitioner. Assailing the said proceedings, dated 06.07.2017, the petitioner herein filed W.P.No.24752 of 2017 before

this Court. This Court, on 08.08.2017, disposed of the said Writ Petition, leaving it open for the petitioner to submit explanation by treating the said order of termination, dated 06.07.2017, as a show cause notice with a further direction to the respondents to consider the same after giving opportunity of hearing to the petitioner herein. Subsequently, the petitioner herein, on 09.09.2017, submitted an explanation. Thereafter, vide proceedings under challenge, the respondents once again terminated the licence of the petitioner herein on the ground of the alleged violation of licence conditions alleging that he collected excess parking charges.

According to the learned counsel for the petitioner, the impugned order is highly illegal, arbitrary and violative of Articles 14 and 19 (1) (g) of the Constitution of India. Learned counsel would submit that the respondent authorities even did not adhere to the orders of this Court passed in W.P.No.24752 of 2017 wherein this Court directed the respondents to afford opportunity of hearing to the petitioner herein. It is also the submission of the learned counsel for the petitioner that had an opportunity of hearing been afforded to the petitioner herein by the respondents, the petitioner would have explained the realities and the impugned order would not have been emanated.

On the contrary, it is submitted by the learned Standing Counsel that there is absolutely no illegality nor there exists any infirmity in the impugned order and, in the absence of the same, the order impugned is not amenable for any judicial review under

Article 226 of the Constitution of India. It is also the submission of the learned Standing Counsel that, strictly in conformity with the orders of this Court, the explanation of the petitioner was considered by the respondents and the impugned order came to be passed by the respondents, and as such, the petitioner herein cannot make any complaint as to the violation of the principles of natural justice.

It is significant to note that earlier when the petitioner herein approached this Court, questioning the order of cancellation, this Court disposed of W.P.No.24752 of 2017, leaving it open for the petitioner herein to submit explanation to the said order of termination by treating the same as a show cause notice. In the said order, this Court also specifically directed the respondents to give an opportunity of hearing to the petitioner herein. It is the specific case of the petitioner herein in the affidavit, filed in support of the Writ Petition, that without giving any opportunity of hearing, as directed by this Court, the respondent authorities passed the impugned order. As rightly pointed out by the learned counsel for the petitioner, except merely referring to the explanation offered by the petitioner herein, the respondent authorities did not consider the validity or otherwise of the contents of the explanation nor the impugned order discloses anything with regard to the opportunity of hearing. This exercise undertaken by the respondent authorities, in the considered opinion of this Court, can neither be countenanced nor approved. When this Court specifically directed

the respondents to give an opportunity of hearing to the petitioner, the respondent authorities ought to have adhered to the said direction. On this ground alone, the Writ Petition is liable to be allowed. In the considered opinion of this Court the matter requires consideration by the respondents after giving opportunity of hearing to the petitioner herein.

For the aforesaid reasons, the Writ Petition is allowed, by setting aside the impugned order dated 26.09.2017. However, it is open for the respondents herein to pass orders afresh after giving opportunity of hearing to the petitioner herein and after considering the explanation offered by the petitioner.

As a sequel thereto, Miscellaneous Petitions, if any, pending shall stand closed.

05th October, 2017
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A.V.SESHA SAI,J

