

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

W.P.No.19796 of 2016

ORDER

Challenging the communication dated 11.5.2016 issued by the 2nd respondent, the petitioner-company, registered under the Companies Act, 1956, filed the present writ petition.

The facts leading to the present case are that the 3rd respondent filed a complaint on 29.1.2013 before the 2nd respondent-Registrar of Companies requesting that the petitioner-company be marked as having a "Management Dispute". The Management Dispute went before the Company Law Board and the same was dismissed. Consequently, the company was demarked as having "Management Dispute". The order of the Company Law Board was challenged by the 3rd respondent before this Court and the same was dismissed on 31.10.2013. Against the said order, a Special Leave Petition was filed by the 3rd respondent and the same is pending and no interim order is existing as on today. The 3rd respondent filed a representation before the 2nd respondent on 17.2.2016 for initiation of statutory and prosecution proceedings with effect from 13.4.2011 till date in respect of several issues. When the said representation was not considered, the 3rd respondent approached this Court by filing W.P.No.7726 of 2016 and the same was disposed of on 10.3.2016 directing the 2nd respondent-Registrar of Companies to consider the said

representation and pass appropriate orders. Pursuant to the same, the 2nd respondent passed an order on 11.5.2016, which reads as under:

“Please note that the Sharvani Energy Private Limited having CIN U40100AP2002PTCO38332 has been marked as having management dispute with the following reasons.

As per the directions of the Hon’ble High Court of Hyderabad for AP & TG and examined the complaint the company marked under management dispute.

You are required to settle the matter amicably or get an order/interim order from a Court or Tribunal of competent jurisdiction. Till such dispute is settled, the documents filed by the company and by the contesting groups of Directors will not be approved/registered/recorded and will thus not be available in the registry for public viewing.”

As stated above, there is no interim order with regard to the Management Dispute initiated by the 3rd respondent, pending Special Leave Petition before the Supreme Court. The present writ petition is filed seeking intervention of the 2nd respondent for initiation of statutory and prosecution proceedings. But the 2nd respondent passed the impugned order taking the aid of General Circular No.1/2012.

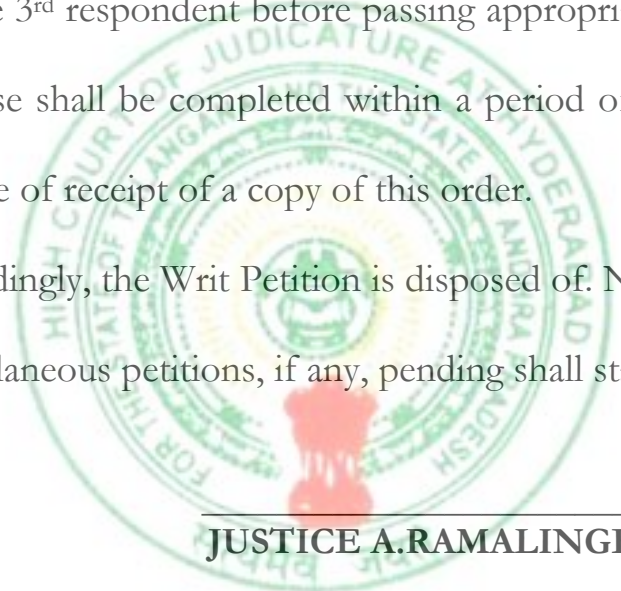
It is submitted by the learned counsel on either side that the earlier complaint relates to a Management Dispute and the present complaint relates to several issues raised by the 3rd respondent seeking statutory intervention and by wrongly applying Circular

No.1/2012, dated 10.2.2012 to the instant case, the impugned order was passed.

Since this Court is satisfied that the impugned order was passed without applying mind to the facts of the case, the same is set aside and the matter is remanded to the 2nd respondent for taking appropriate action, in accordance with law, pursuant to the order of this Court in W.P. 7726 of 2016, dated 10.3.2016. It is needless to observe that the 2nd respondent can hear the petitioner as well as the 3rd respondent before passing appropriate orders. The entire exercise shall be completed within a period of three months from the date of receipt of a copy of this order.

Accordingly, the Writ Petition is disposed of. No costs.

Miscellaneous petitions, if any, pending shall stand closed.



JUSTICE A.RAMALINGESWARA RAO

6th February, 2017
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