

HON'BLE SRI JUSTICE P. KESHA RAO

WRIT PETITION No.9896 of 2005

ORDER:

Heard learned counsel for the petitioner as well as the respondents.

The present writ petition is filed by the petitioner challenging the proceedings issued by the 1st respondent, dated 10.01.2005, and the consequential communication of the 2nd respondent, dated 11.02.2005, as illegal and without jurisdiction.

The petitioner is a company registered under the Companies Act, 1956 and is engaged in the business of manufacturing the packaged drinking water at Visakhapatnam. The petitioner applied to the Registrar of Trade Marks, Chennai, for registering its brand name as Godavari. Accordingly, a temporary certificate, dated 19.04.1999, bearing No.851914 permitting the petitioner to use the brand name as Godavari for its products has been issued and the petitioner is continuing his business in the name and style of Godavari for its packaged drinking water bottles. However, the Director and Head of Bureau of Indian Standards, 2nd respondent herein, issued proceedings/letter, dated 10.01.2005, to the effect that as per clause 7.2.2 of IS 14543 : 2004, the name of the locality, hamlet or specified place may not form part of the brand name unless it refers to a packaged drinking water collected and processed at the

place designated by that brand name. Since the petitioner's brand name is not confirming to the same, the petitioner was asked to stop using the brand name immediately. Consequently, the Assistant Director, Bureau of Indian Standards, 1st respondent herein, issued proceedings, dated 11.02.2005, directing the petitioner to confirm the compliance of exhausting the packing material within 90 days as permitted by the authority. Questioning the same, the present writ petition is filed.

Though the writ petition is filed in the year 2005, no counter affidavit is filed till date.

Learned counsel for the petitioner contended that the impugned proceedings have been issued pursuant to clause 7.2.2 of Bureau of Indian Standards 14543 of 2004 Regulations. Learned counsel also brought to the notice of the Court that the said regulations have been amended in the year 2016, whereby and whereunder clause 7.2.2 is retained without there being any change. In the year 2017, once again the said regulations have been amended, wherein for the first time clause 7.2.2 has been modified and as per clause 6.5, the label on the bottles/containers, pouches and/or the secondary packaging shall not contain the claims, which are prohibited as per clause 7.2 of Indian Standards 14543 : 2016 Guidelines. Learned counsel submits that since the earlier guidelines have already been modified, no cause would survive in the present writ petition and it is for the

respondents to issue fresh proceedings in compliance with the amended regulations of STI/14543/2010. Learned counsel also would submit that the impugned proceedings in the present writ petition cannot be enforced in the light of the amendments brought out to clause 7.2.2 and the writ petition has become infructuous.

Learned counsel for the respondents would submit that in spite of his best efforts and writing letters, there is no response from the respondents.

In view of the above submission made by the learned counsel for the petitioner, the writ petition is dismissed as infructuous. However, it is open for the respondents to issue fresh proceedings in compliance with the amended regulations and take appropriate action against the petitioner as per law. No order as to costs.

Miscellaneous petitions, if any, shall also stand dismissed.

JUSTICE P. KESHAVA RAO

Date: 19.12.2017.
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