

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.7515 of 2012

ORDER:

The case of the petitioner is that he is running rice mill in the name and style of M/s Narayana Modern Rice Mill, Rayampally Road, Uravakonda, Ananthapur District since 2008 having obtained from its owner Sri Mallikarjuna Swamy for a period of 20 years on lease under lease agreement which is valid till 10-03-2028. Initial capacity of rice mill is 30 HP and the petitioner upgraded the power load to 60 HP from 30 HP after obtaining approval from concerned authorities. The proposal was cleared by Gram panchayat, Uravakonda in its General Body Meeting held on 26-03-2008. It is also stated that Deputy Chief Inspector of Factories approved the revised plans of rice mill for installation of 60 HP electric motor vide letter dated 24-04-2008 and the petitioner paid an amount of Rs.1,64,490/- for upgrading the existing load of 30HP to 60HP to APCPDCL and accordingly the same was converted into 60 HP to the rice mill in the month of October, 2008. The respondent-grapanchayat also granted licence from 01-04-2008 to 31-03-2011 after collecting fee of Rs.5,000/- and said licence was extended up to 2012 vide licence No.124/2011-2012 and the petitioner was running rice

mill for the last four years and at the instance of lessor of petitioner by name Mallikarjunaswamy, notice dated 20-02-2012 was issued by the 2nd respondent stating that the petitioner should run rice mill with 30 HP only load and not with 60 HP load and asked the petitioner to modify the same and thereafter the petitioner submitted all the documents including approval from District Industries Center and the 2nd respondent is aware of all documents and submitted report to the 1st respondent on 25-01-2012. Again a second notice dated 12-03-2012 was issued stating that the petitioner did not submit written representation to the notice dated 20-02-2012 and he should step down the load from 60HP to 30 HP within seven days, otherwise, his licence would be cancelled and mill would be seized. Aggrieved by the same, the present writ petition is filed.

Counter affidavit is filed by the 2nd respondent stating that the petitioner was running rice mill initially with 30 HP power and thereafter converted to 60 HP and the Grampanchayat after collecting Rs.5,000/- as licence fee has renewed licence from 2011 to 2014. The petitioner also obtained technical sanctions to run the rice mill. However, the petitioner had some issue with one Mr.B.Suryanarayana and his mother Smt.Tulasamma who are neighbours to the petitioner who made complaint to

the higher authorities with regard to conversion from 30 HP to 60 HP. As such, the allegation of petitioner that owner of mill influencing this respondent to cancel the licence is denied. On the complaint of one B.Surayanarayana against the petitioner, the 1st respondent directed this respondent to take appropriate action and that this respondent issued notice to the petitioner directing him to step down the load from 60 HP to 30 HP in running the rice mill. The petitioner has not given any explanation to the first notice, as such the impugned notice is issued.

Learned counsel for the petitioner submits that the petitioner has obtained valid licence and paid amount for conversion of load for the rice mill from 30 HP to 60 HP capacity and that issuance of impugned notice is without jurisdiction and not traceable to any provision of law.

On the other hand, Sri G.Seshadri, Standing Counsel appearing for the 2nd respondent submits that on the complaints of neighbours the present notice was issued by and says that by virtue of Section 122 of Panchayat Raj Act (for short “the Act”) impugned notice was issued.

Heard also learned counsel for the 3rd respondent who submits that running of mill is causing inconvenience to the residents of the locality as well as neighbours of mill. As such notices were issued. Both notices go to

show that no provision of law is mentioned in them. Though learned Standing Counsel traces such power to Section 122 of Panchayat Raj Act.

A reading of Section 122 of Panchayat Raj Act is as follows:

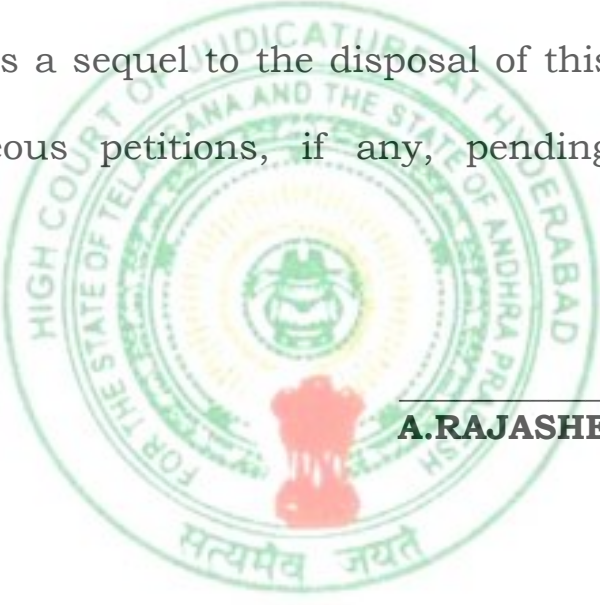
- 1) If any factory, workshop or workplace in which steam power, water power or other mechanical power or electrical power is used, nuisance is caused by reason of the particular kind of fuel employed or by reason of the noise or vibration caused, the Grampanchayat may issue such directions as it thinks fit for the abatement of nuisance with a reasonable time to the specified for the purpose.
- 2) If there has been willful default in carrying out such directions or if abatement is found impracticable the Grampanchayat may-
 - (a) prohibit the use of particular kind of fuel employed;
 - (b) restrict the noise or vibration by prohibiting the working of the factory, workshop or workplace between the hours of 9.30 pm and 5.30 am.

The ingredients of Section 122 of the Act is not found in the impugned notice. But in the counter affidavit, it is stated that on the complaint of neighbours, the impugned notice issued, is very vague. It does not prohibit the authorities from issuing notice under Section 122 of the Act. In the implead petition, the 3rd respondent

stated that running of mill is causing nuisance and causing damage to her crop.

In view of the same, impugned notice is hereby liable to be quashed as it is vague and accordingly, impugned notice is quashed. It is however open for the 2nd respondent to take action in accordance with law by issuing proper notice in terms of the Section 122 of the Act.

To the extent indicated above, this writ petition is allowed. As a sequel to the disposal of this writ petition, miscellaneous petitions, if any, pending shall stand closed.



A.RAJASHEKER REDDY,J

08-06-2017
Nvl



