

THE HON'BLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No.6352 of 2017

ORDER:

This writ petition, filed under Article 226 of the Constitution of India, challenges the demand notice bearing Lr.No.ADE/OP/BLNR/D-XVI/D.No.2915/17, dated 10-02-2017 of the Assistant Divisional Engineer, Operation Balanagar Sub-Division, Hyderabad – 2nd respondent herein.

Heard, Smt.Jyothieswar Gogineni, learned counsel for the petitioner and Sri R. Vinod Reddy, learned Standing Counsel for respondents.

Earlier, the petitioner herein filed W.P.No.7100 of 2016 before this Court questioning the action of the respondents in changing the category from LT III-A to LT II-B and on the demand notice, dated 01-08-2015 on the ground that the same was not preceded by any notice. This Court, by way of an order, dated 14-03-2016 disposed of the said writ petition setting aside the demand notice impugned therein. In the said order, this Court granted liberty to the respondents to issue notice to the petitioner calling for objections and for taking further action after considering the objections. This Court also directed the respondents to pass a speaking order and to communicate the same.

Pursuant to the said order, the 2nd respondent herein issued a notice vide Lr.No.ADE/OP/BLNR/D-XVI/D.No.2448/16-17, dated 04-01-2017 asking the petitioner to file objections for the proposal for reclassification of the category as per Clause 3.4.1 of GTCS (General terms and Conditions of Supply) from LT Industrial-III to LT Commercial-II. After receipt of the said notice, the petitioner herein submitted a representation on 09-01-2017 to the 2nd respondent requesting to supply the tariff book to enable the petitioner to file objections.

According to the learned counsel for the petitioner, the respondents supplied the tariff book in the 1st week of February, 2017. Thereafter, on 07-02-2017, the petitioner herein submitted the objections before the 2nd respondent. Now, by way of the order under challenge the Assistant Divisional Engineer – 2nd respondent herein confirmed the value of assessed revenue loss.

The grievance of the petitioner is that having received the objections, in the said impugned letter it is stated that the 2nd respondent did not receive any objections from the petitioner within 15 days from the date of notice.

According to the learned counsel for the petitioner, the said action on the part of the 2nd respondent is highly illegal, arbitrary and unreasonable and violative of Article 14 of the

Constitution of India, besides being opposed to the principles of natural justice. It is further submitted by learned counsel that having received the objections filed by the petitioner and having acknowledged the same the 2nd respondent is not be justified in passing the order under challenge.

On the contrary, it is submitted by learned Standing Counsel for respondent company that there is no illegality nor there is no procedural infirmity in the impugned action and the 2nd respondent is perfectly justified in passing the impugned orders.

There is absolutely no dispute as regards the fact that the petitioner herein submitted a representation on 09-01-2017 to the 2nd respondent requesting to supply the tariff book. It is also categorically stated in the writ affidavit that the said tariff book was supplied to the petitioner in the 1st week of February, 2017. The information available before this Court further manifestly discloses that on 07-02-2017 itself the petitioner herein submitted his objections and the office of the 2nd respondent also acknowledged the same. Therefore, this Court does not find any valid reason on the part of the 2nd respondent to discard the said objections filed by the petitioner herein. In the considered opinion of this Court the 2nd respondent ought to have considered the

objections filed by the petitioner herein and ought to have considered the issue in the light of the same.

Having heard the learned counsel for the petitioner and learned Standing Counsel for the respondents, this Court is of the considered opinion that the ends of justice would be served if the matter is remanded for fresh consideration to the 2nd respondent after taking into consideration the objections submitted by the petitioner herein.

For the aforesaid reasons, the writ petition is allowed, setting aside the impugned demand notice bearing Lr.No.ADE/OP/BLNR/D-XVI/D.No.2915/17, dated 10-02-2017 issued by the 2nd respondent and the matter is remanded to the 2nd respondent for fresh consideration, in accordance with law, after giving notice and opportunity of being heard to the petitioner and after taking into consideration the objections filed by the petitioner on 07-02-2017. The said exercise shall be completed within a period of six (6) weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this Writ Petition, shall stand closed.

A.V. SESA SAI, J

February 23, 2017

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