

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE Ms. JUSTICE J. UMA DEVI

Writ Appeal No. 545 of 2017

Judgment: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the learned Single Judge in W.P. No. 21404 of 2016 dated 23.2.2017.

The appellants herein are the respondents in the writ petition. The respondent herein filed W.P. No. 21404 of 2016 questioning the action of the appellants, in refusing to consider his request for renewal of a stall allotted to him on 23.6.2011 under the Catering Policy, 2010 (for short 'the 2010 Policy') as arbitrary and illegal. The only ground on which the respondent-writ petitioner's application was rejected was that an application for renewal ought to have been submitted six months prior to the expiry of the licence period and, while the licence period was due to expire on 22.6.2016, the respondent-writ petitioner had submitted his application only on 16.5.2016; and since the 2010 Policy is not in force as on date, and it is the 2012 Policy which is in vogue, the respondent-writ petitioner is not entitled to have his licence now renewed in terms of the 2010 Policy.

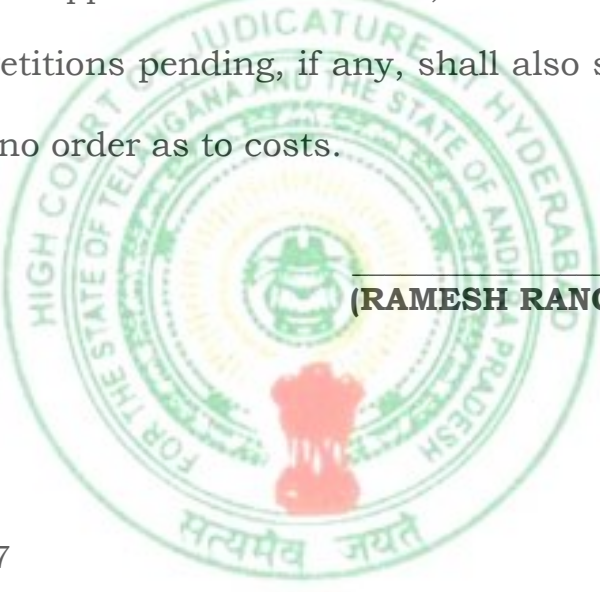
In the order under appeal, the learned Single Judge referred to the earlier order passed by this Court in W.P. No. 14577 of 2013 and batch dated 16.8.2013, to the order of the Supreme Court in C.A. Nos. 618-620 of 2016 dated 29.1.2016 declining to interfere with the judgment of the Division Bench of this Court, and to the observations in the judgment of the Supreme Court that only those licensees, who could declare on affidavit that they do not have a licence for more than one shop or kiosk in their name or benami licence at the Railway Station, were eligible for renewal of their licence; the respondent-writ

petitioner had submitted an application earlier in the month of December, 2015, and had followed it up with another application dated 16.5.2016; the earlier application submitted by the respondent-writ petitioner in December, 2015 was more than six months prior to the last date of the licence ie, 22.6.2016; even otherwise, the respondent-writ petitioner's entitlement for renewal, on filing an undertaking, was in terms of the order of the Supreme Court in C.A. Nos. 618-620 of 2016 dated 29.1.2016; and since the respondent-writ petitioner's entitlement to seek renewal on filing an affidavit accrued only in terms of the judgment of the Supreme Court, he could not have submitted an application even prior thereto seeking renewal. The 2nd appellant herein was directed to consider the application of the respondent-writ petitioner for renewal without his having to file an affidavit as there was no dispute that he was only having one stall.

The fact that the respondent-writ petitioner was granted licence for only one shop is not in dispute. The only dispute is regarding his entitlement for renewal on the ground that he did not submit an application for renewal six months prior to the expiry of the licence period. As the order of the Supreme Court in C.A. Nos. 618-620 of 2016 was passed only on 29.1.2016, reliance placed by Sri T.S. Venkataramana, learned Standing Counsel for the appellants, on Clause 17 of the 2010 Policy to contend that the application for renewal ought to have been filed more than six months prior to the expiry of the licence period, is of no avail. As has been rightly observed by the learned Single Judge, in the order under appeal, the respondent-writ petitioner's entitlement to claim renewal of the licence for one shop arose pursuant to the order of the Supreme Court in C.A.Nos.618-620 of 2016 dated 29.1.2016, by which date the six months period stipulated in Clause 17 of the 2010 Policy had already expired. Even

otherwise, the learned Single Judge has recorded a finding that the respondent-writ petitioner had filed an application in December, 2015, and had followed it up with another application dated 16.5.2016. While it is no doubt true that the 2012 Policy is now in force, the respondent-writ petitioner was granted licence not under the 2012 Policy but under the 2010 Policy, and his right for renewal arose in terms of the judgment of the Supreme Court, which also considered the 2010 Policy. The contention of the appellants that the respondent-writ petitioner is not entitled for renewal in view of the 2012 Policy is only noted to be rejected.

The writ appeal fails and is, accordingly, dismissed. Miscellaneous Petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.



(RAMESH RANGANATHAN, ACJ)

(J. UMA DEVI, J)

9th August, 2017

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Date: 09.08.2017

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