

THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

W.P. NOs. 28 and 25573 of 2012

COMMON ORDER:

Heard learned counsel for the parties.

These two writ petitions are being disposed of, as they relate to land given on lease to the petitioners.

W.P.No. 28 of 2012 was filed challenging the action of the first respondent in trying to interfere with the petitioners' activity of establishing and operating the environment friendly clean fuel filling station and other auto related activities as provided for in the lease deed dated 14.5.2009.

After filing the writ petition, it appears that the second respondent addressed a letter dated 23.7.2012 to the first respondent recommending to review the decision in G.O.Ms. No. 213, MA & UD (1) Department, dated 27.2.2009 and also appears to have issued a show cause notice, dated 23.7.2012 to the petitioners asking them to explain the reasons as to why further action should not be taken for cancellation of the lease deed for failure to follow the conditions as envisaged in the lease deed, thereby violating condition No. 5 (f) of the lease deed within 15 days. The petitioners sent their explanation dated 11.8.2012 to the second respondent and simultaneously filed W.P.No. 25573 of 2012 challenging the show-cause notice.

This Court, by order dated 17.8.2012, granted an order of status quo, as a result of which the second respondent was prevented from taking further action in the matter.

Elaborate arguments were heard on the merits of the case and ultimately it was suggested to the petitioners to submit to the jurisdiction of the second respondent, as the second respondent issued a show-cause notice and an explanation was already filed by the petitioners in response to the show-cause notice. The learned counsel for the petitioners also agreed for the same.

So far as the letter dated 23.7.2012 addressed by the second respondent to the first respondent is concerned, it can be treated as an internal communication of both the respondents and the petitioners cannot have any grievance with regard to the same.

The controversy in the present case arose out of allotment of land to an extent of Ac.2-30 guntas in Sy.No. 41/14, situated at Khanamet village, Serilingampally Mandal, Ranga Reddy district to the petitioners for establishment of environmental friendly clean fuel filling station and other auto related activities, on lease basis, for a period of 33 years, under G.O.Ms.Mo. 213, Municipal Administration and Urban Development Department, dated 27.2.2009. It appears that the first petitioner submitted a representation dated 28.11.2008 for allotment of land on lease and on the basis of report dated 21.2.2009 submitted by the second respondent, the aforesaid Government Order was issued allotting of land in favour of the petitioners. After receiving the said G.O. a lease deed dated 14.5.2009 was entered between the petitioners and the second respondent. Thereafter, certain disputes arose with regard to implementation of the conditions of lease deed which resulted in issuing the impugned show-cause notice to the petitioners and also addressing a letter dated 23.7.2012 to the

first respondent seeking to review and cancel the order issued in G.O.Ms.No. 213 MA & UD (1) Department, dated 27.2.2009.

As stated above, the petitioners submitted an explanation dated 11.8.2012 to the show-cause notice and in view of the status quo order granted by this Court, the second respondent could not have taken any action pursuant to the show-cause notice and the explanation by the petitioners till today. It appears that the first respondent has also not taken any action pursuant to the letter dated 23.7.2012 addressed by the second respondent seeking review of the decision in G.O.Ms.No. 213 MA & UD (1) Department, dated 27.2.2009 so far and the matter is pending with the first respondent.

W.P.M.P.No. 54871 of 2016 was filed by Bharat Petroleum Corporation Limited to implead it as third respondent in W.P.No. 25573 of 2012 on the ground that the writ petitioners had executed a lease deed dated 12.8.2011 in their favour and they spent more than Rs.2.00 crores for establishment of retail outlet. However, the learned standing counsel appearing for the second respondent disputes the same and opposed the impleadment of the said party.

After hearing the learned counsel for parties at length, as four years' time has elapsed from the earlier show-cause notice and submission of the explanation by the petitioners and in view of the subsequent developments, it was suggested to the learned standing counsel for the second respondent that the second respondent can take subsequent developments also into consideration and issue a fresh show-cause notice detailing the breaches allegedly committed by the petitioners in respect of lease deed, if any, and the petitioners are also

at liberty to submit a detailed explanation to the proposed show-cause notice. The said course is accepted by both the parties.

In the circumstances, the impugned show-cause notice dated 23.7.2012 issued to the petitioners is set aside and consequently the explanation submitted earlier is also of no avail. However, it is open to the first respondent to take independent decision on the letter dated 23.7.2012 addressed by the second respondent with regard to review of the decision in G.O.Ms.No. 213 MA & UD (1) Department, dated 27.2.2009.

In view of the liberty given to the second respondent to issue a fresh show-cause notice, it is needless to observe that if the proposed party established a retail outlet over the area leased out to the petitioners, the second respondent shall send a copy of the show-cause notice to the said Bharat Petroleum Corporation Limited also, who is at liberty to submit their explanation, if any. The second respondent is at liberty to pass appropriate orders after receipt of the explanations, in accordance with law.

Both the writ petitions are accordingly disposed of. WPMP No. 54871 of 2016 is dismissed. Other miscellaneous applications, if any, in both writ petitions, shall stand closed. No order as to costs.

A. RAMALINGESWARA RAO, J

Dt. 5.1.2017
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