

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

WRIT PETITION No.15975 of 2017

ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking the following relief:

“To issue a Writ of Order or direction, made particularly A WRIT OF MANDAMUS (i) declaring the Proceedings No. S-1/6389/2016-10 dt: 6.4.2017 of R2 in confirming the Proc Lr.No.AMC/BPoally/Lic20/2016-17/323 dt :17.11.2016 of R3 where under the request of the petitioner firm to renew the commission agent licence has been refused as illegal, contrary to the provisions of Markets Act. (ii) Also declare that the petitioner firm is entitled for the renewal of commission agent Licence for further period of 5 years i.e 1.4.2016 to 31.3.2021, (iii) Also declare that the reasons shown in the impugned orders for the rejection of renewal of licence are not sustainable in the eye of law and pass such other order or orders as this Hon'ble court may deem fit and just..”

2. Heard Sri P.Gangaiah Naidu, learned Senior Counsel appearing for the learned Counsel for the petitioner on record Smt.G.Bhanupriya and learned Standing Counsel for respondent Agricultural Market Committee.

3. According to the deponent of the affidavit, he is partner of the petitioner company and the said Partnership Firm was registered with Registrar of Firms on 11.05.2010 vide registration No.927/2010. Initially, Partnership Deed was executed on 08.05.2010 consisting of the petitioner/the deponent of the affidavit and another, one Sri M.Venkatesham as partners with equal shares of profits and losses in the business to be carried on in vegetables as commission agent at Bowenpally Market in the name and style of M/s.Laxmi Narasimha Vegetable Trading Company Commission Agent. It is further stated that the firm obtained a license under section 7 (1) of the Markets Act to carry on the business in

vegetables as commission agent and that the partner Sri M.Venkatesham was having a purchase license which expired in 2013. It is further stated that the petitioner obtained license from the third respondent on 25.06.2011 and the same was valid for the period from 25.06.2011 to 31.03.2016. It is further stated that one of the partners of the firm Sri M.Venkatesham intended to retire from the firm and another partner B.Anjali intended to become partner of the firm and as such the reconstitution of partnership deed was executed and subsequently the same was registered on 13.04.2016 with the Registrar of Firms and the same was intimated to the market authorities.

4. According to the petitioner, an application for renewal of license was submitted to the Agricultural Market Committee and the person in-charge of the Agricultural Market Committee, Bowenpally, by way a letter bearing Lr.No.AMC/B'Pally/Lic/20/2016-17/323, dated 17.11.2016, rejected the said application on the ground that Sri M.Venkatesham was the applicant to whom the Commission Agent License has been sanctioned for the years 2011-2016 and he retired from the partnership on 04.10.2012 and had no rights for transfer his Commission Agent License granted in the name and style M/s.Sri Laxmi Narasimha Vegetable Trading Company Vegetable Commission Agent, AMC, Bowenpally. Aggrieved by the said order of rejection passed by the Agricultural Market Committee, petitioner herein filed appeal before the Director of Agricultural Market (FAC), Hyderabad. The Director of Agricultural Market Committee of Telangana, Hyderabad passed an order vide proceedings No.S-1/6380/2016-10, dated 06.04.2017, rejecting the said appeal filed by the petitioner herein thereby confirming the order passed by the Agricultural Market Committee, rejecting the renewal application of the petitioner herein.

5. According to the learned Senior Counsel, the order of the appellate authority/second respondent herein, dismissing the appeal filed by the petitioner herein against the order of rejection dated 07.11.2016 is highly illegal, unjust and contrary to the provisions of Agricultural Market Act and the Partnership Act. It is further submitted that the reason assigned by the respondents herein for refusal to renew the license that Sri M.Venkatesham retired from the partnership on 04.10.2012 and has no right to transfer license in the name and style of M/s. Laxmi Narasimha Vegetable Trading Company Commission Agent is highly illegal and unsustainable and Rule 50 (2) r/w 52 (6) of Market Rules has no application and the said M.Venkatesham was not the licensee and the petitioner herein is a partnership firm holding the license.

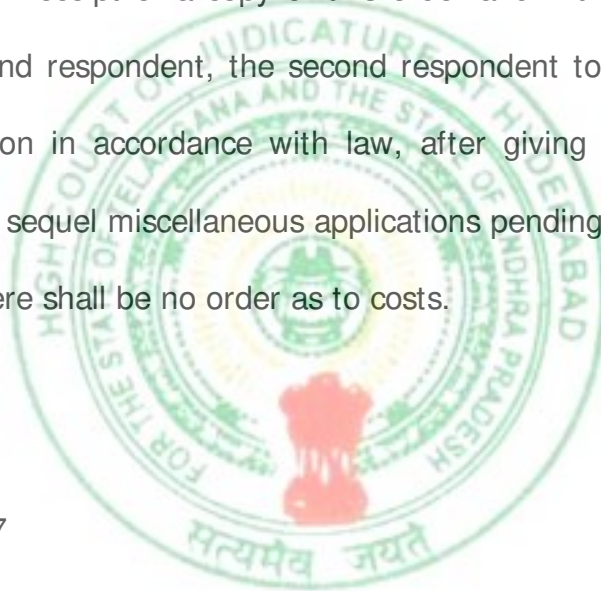
6. It is further submitted that the license was granted in favour of the partnership firm, consisting of two partners viz., petitioner herein and Sri M.Venkatesham with equal shares and it obtained licence under Section 7 (1) of the Market Act and later one partner retired and another partner was inducted in accordance with the provisions of the Partnership Act.

7. During the course of the arguments, it is submitted by the learned Standing Counsel that there is no evidence to show that such induction was affected.

8. On the other hand, it is submitted by the learned Senior Counsel that Sri M.Venkatesham intended to retire from the firm and another partner intended to become partner of the firm and that the reconstitution of partnership deed was executed. Therefore, the very action on the part of the respondent authorities is highly arbitrary and illegal.

9. At the time of hearing, the learned counsel for the petitioner has placed on record the renewal application dated 18.03.2016 wherein the petitioner herein requested for renewal in the name of the firm.

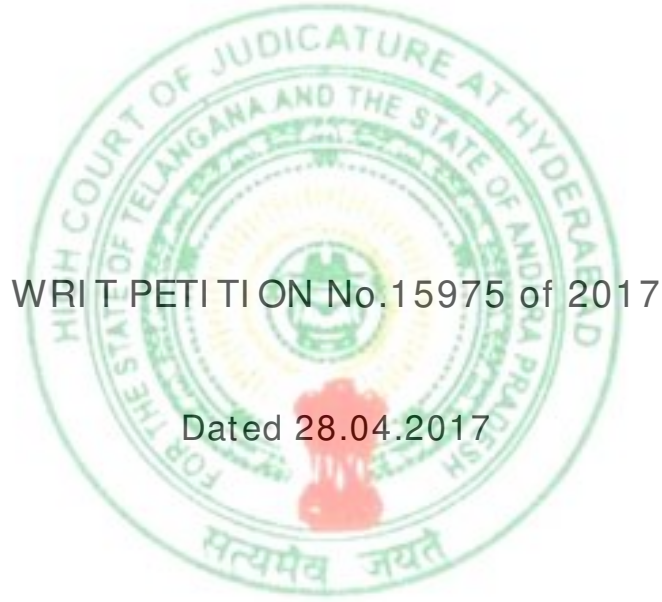
10. In the considered opinion of this Court, all these aspects need attention of the authorities while dealing with the application of the petitioner herein. Therefore, this Court deems it appropriate to dispose of the writ petition, keeping it open for the petitioner herein to submit all the papers mentioned *supra* to substantiate its request before the second respondent for reconsideration of the case for grant of renewal, within a period of two weeks from the date of receipt of a copy of this order and if the same are placed before the second respondent, the second respondent to consider and take appropriate action in accordance with law, after giving opportunity to the petitioner. As a sequel miscellaneous applications pending, if any, shall stand disposed of. There shall be no order as to costs.



A.V.SESHA SAI, J

Date:28.04.2017
b/o grk

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



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Dated 28.04.2017

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