

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.12090 of 2017

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed seeking to declare the action of the respondent in not considering the representation, dated 30.05.2016, submitted by the petitioner seeking transfer of the original licence standing in the name of his grandfather, Sri V.Subba Rayulu, on his name in respect of Shop No.255, II Floor, Main Shopping Complex, Tirumala, as arbitrary and illegal.

2. The petitioner's claim is that his grandfather, V.Subba Rayulu, was allotted Shop No.3 in D-Type quarters at Tirumala, for running the business of hair cutting saloon. While things stood thus, his grandfather submitted an application for change of shop from D-type quarters to S.V.Shopping Complex at Tirumala. Accordingly, the respondent issued proceedings, dated 16.04.1996, allotting Shop No.255, II Floor, Main Shopping Complex, Tirumala, on condition that the business should be changed from Saloon to Fancy shop. The licence was granted for a period of one year. While so, his grandfather died on 03.05.2001. Thereafter, though the petitioner's mother made a representation on 25.05.2001 to change allotment of shop on her name to enable her to take care of minor children, the respondent did not act upon it. Therefore, the petitioner's mother is continuing business in the said shop. Though the petitioner's mother paid the licence fee and penalty, the respondent officials are trying to dispossess her from the said shop. Aggrieved by the action of the respondent, she filed W.P.No.10498 of 2007 and this Court by an order, dated

16.05.2007, granted interim direction to continue the petitioner to run the shop until further orders. Thereafter, the petitioner's mother submitted a representation on 03.03.2009 to the respondent requesting to permit her to shift the shop to the ground floor of the same building or to any shop opposite CRO office, wherein 100 shops are constructed or shops opposite to Saptagiri Choultry, where four vacant shops are available or to the STD booth near Vigilance Security Office. Though the said representation was received on 04.03.2009 by the respondent, no action was taken. Thereafter, the petitioner's mother filed another W.P.No.5645 of 2009 and this Court granted interim orders on 19.03.2009 to consider the representation, dated 03.03.2009, for shifting of shop to the places stated above within four weeks from the date of the order. In spite of the same, the respondent has not passed any order. On 12.09.2012, this Court disposed of the said Writ Petition directing to consider the representation, dated 03.03.2009. Since the respondent has not implemented the orders of this Court, the petitioner's mother filed C.C.No.604 of 2013. At the time of hearing of Contempt Case, the respondent has produced proceedings, dated 14.06.2013, stating that the petitioner's mother is not eligible for grant of licence as a legal heir on the ground that her husband was an employee in TTD. Basing on the said averment, the Contempt Case is closed.

3. Now, the present Writ Petition is filed to consider and dispose of the representation, dated 03.05.2016.

4. It is the contention of the learned counsel, as a matter of fact, the petitioner's father retired from service on 30.06.2015.

Therefore, there is no embargo on the respondent-Devasthanam to consider the case of the petitioner permitting her to continue to run the shop. It is also the specific assertion of learned counsel that the respondent has not disposed of the representation, dated 25.05.2001 submitted by her mother.

5. This Court issued notice before admission on 19.04.2018. When W.P.No.10498 of 2007 filed by his mother came up for hearing, learned counsel for the petitioner submitted that the petitioner has filed the present Writ Petition and on the orders of Hon'ble the Acting Chief Justice, both the matters were clubbed together.

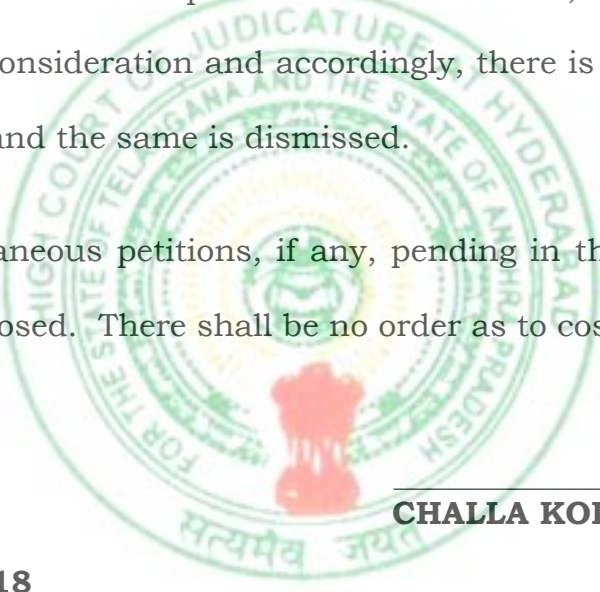
6. Today W.P.No.10498 of 2007 came to be disposed of by a reasoned order, wherein this Court has upheld the contention of the respondent that there being no policy or system of transferring the licence in favour of either daughter-in-law or in favour of grandson. Practically the averments in the present writ petition are nothing but replica in W.P.No.10498 of 2007. Though no counter-affidavit is filed by the respondents, learned counsel for the respondents prayed for disposal of the writ petition after considering the oral submissions. The petitioner was impleaded as petitioner No.2 in the writ petition on the demise of his mother.

7. The grievance of the petitioner in this writ petition is non-consideration of representation, dated 03.05.2016, said to have been submitted for transfer of licence, standing in the name of his grandfather, in his favour. In this context, it may be noted that as a matter of fact, the claim of the petitioner's mother, who is 1st petitioner in W.P.No.10498 of 2007 came to be rejected by

proceedings, dated 14.06.2013, and the said proceedings have become final as there was no challenge to the same.

8. It may be noted that where there is no right for making a representation and there is no obligation on the respondent to consider the repeated representations. The writ of mandamus could be issued only to enforce a right, but not otherwise. In those circumstances, as the respondent have categorically held that there is no policy or right to the petitioner and further there is no policy or rule entitling the petitioner to be allotted a shop and there being no contra material placed before this Court, the writ petition deserves no consideration and accordingly, there is no merit in the writ petition and the same is dismissed.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.



CHALLA KODANDA RAM, J

JULY 03, 2018
YVL

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Date:03.07.2018