

THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.5832 of 2015

ORDER:

Heard Mr.Gopal for petitioners, Mr.Thadikonda Koteshwara Prasad for 4th respondent and the Assistant Government Pleader for respondents 1 to 3.

The petitioners challenge proceedings No.G/185/2015 dated 07.02.2015, as illegal, violative of principles of natural justice and unconstitutional.

One of the grounds of challenge against the proceedings impugned in the writ petition is that the 2nd respondent firstly, without affording fair and reasonable opportunity and secondly, without informing the next date of hearing has issued the proceedings impugned in the writ petition.

The petitioners place strong reliance on a few dates and details as borne out from the proceedings dated 07.02.2015 and pray for setting aside the impugned proceeding.

On the other hand, the respondent No.4 contends that the petitioners cannot complain that the proceedings impugned in writ petition are violative of principles of natural justice or passed without informing the next date of hearing, the proceedings dated 07.02.2015 have been issued. The petitioners on one hand and the 4th

respondent on the other are rival claimants and parties before the 2nd respondent. Therefore, this Court on 02.07.2018 directed the 2nd respondent to produce the record in proceedings No.G/185/2015 dated 07.02.2015 for inspection. The file is produced. The following dates are stated from the file produced by the 2nd respondent.

On 02.02.2015, the draft notice is circulated for approval of 2nd respondent.

On 05.02.2015, the file is circulated for hearing stipulating the date of adjournment as 07.02.2015.

The 2nd respondent at the first instance writes “date for next hearing to be announced”. Thereafter, with a overwriting endorses 02.02.2015 as 07.02.2015.

The 2nd respondent endorses ‘put up proceedings’ on 18.02.2015.

The file note refers to draft judgment which is approved without the date. This date should be understood as any time after 18.02.2015, for the 2nd respondent would have had occasion to see the draft judgment prepared by the office only after 18.02.2015. The proceedings impugned in the writ petition bear the date of 07.02.2015 as pronounced by the 2nd respondent.

Prima facie, I am satisfied that the complaint of petitioners against the proceedings impugned in the writ petition they are violative of principles of natural justice,

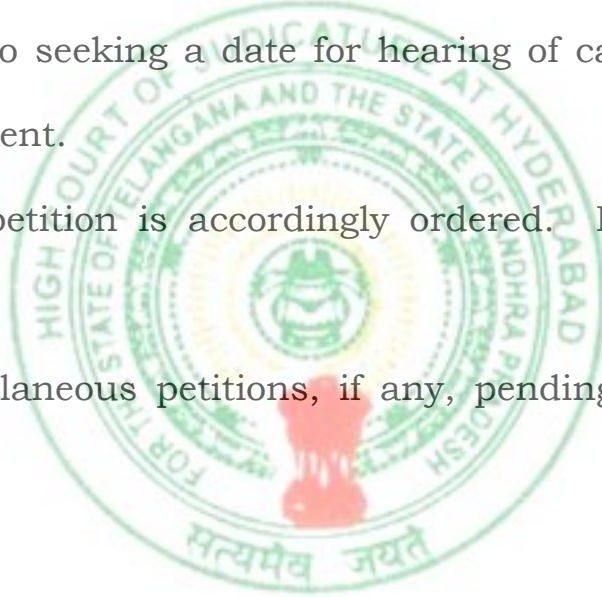
suffer from arbitrariness is convincing are made out, hence held accordingly.

The proceedings impugned in the writ petition are set aside. The counsel consent to remitting the matter to 2nd respondent for disposal, in accordance with law after affording opportunity to all the parties.

The matter is remitted to 2nd respondent for disposal within three (03) months from the date of receipt of copy of this order. The parties to the writ petition are given liberty to file memo seeking a date for hearing of case before the 2nd respondent.

Writ petition is accordingly ordered. No order as to costs.

Miscellaneous petitions, if any, pending, shall stand closed.



S. V. BHATT, J

Date: 10.07.2018
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