

HIGH COURT FOR THE STATE OF TELANGANA

**THE HON'BLE THE ACTING CHIEF JUSTICE
RAGHVENDRA SINGH CHAUHAN**

AND

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

W.A.No.306 of 2019

Date: 09.04.2019

Between:

M/s. R.K. Apparel Fashions Pvt. Ltd.

...Appellant

and

State of Telangana,
Rep. by its Principal Secretary,
Industries Department,
Secretariat Buildings,
Hyderabad and others.

...Respondents

**Counsel for the appellant : Mr. G. Simhadri for
Mr. K. Venkat Reddy**

Counsel for respondent No.1: G.P. for Industries and Commerce

**Counsel for respondent Nos.2 to 4: Mr. L. Prabhakar Reddy,
Standing Counsel for TSIIC**

The Court made the following:

JUDGMENT: *(per the Hon'ble the Acting Chief Justice Raghvendra Singh Chauhan)*

M/s. R.K. Apparel Fashions Private Limited, the appellant, has challenged the legality of the order dated 08.03.2019 passed by a learned Single Judge in W.P.No.4421 of 2019, whereby while allowing the writ petition filed by the appellant, the learned Single Judge has directed the respondent No.2 – Telangana State Industrial Infrastructure Corporation Limited (TSIIC) to decide the representation dated 01.12.2016 filed by the appellant “while keeping in mind the purpose of establishing the Apparel Export Park”. While doing so, the learned Single Judge has also directed that the appellant shall not undertake any other activity other than the apparel related activity till a decision is taken by the respondent – TSIIC in due consultation with the Government.

The learned counsel for the appellant submits that according to the deed of sale dated 05.10.2007, the respondent No.2 had agreed that “it shall approve any change in the line of activity”. Therefore, the observation made by the learned Single Judge directing the respondent No.2 “to keep in mind the purpose of establishing Apparel Export Park”, limits the discretionary power of the respondent No.2. Hence, according to the learned counsel, the said observation made by the learned Single Judge should be deleted from the impugned order.

Secondly, till the decision is taken by the respondent No.2 in due consultation with the Government, the appellant should be permitted to continue its production of Ayurvedic

Cosmetics, Assembly of Diesel Engines, Generators, Plastic Containers and Closures, Industrial Dies, Moulds etc. Therefore, according to the learned counsel for the appellant, the impugned order deserves to be modified by this Court.

On the other hand, Mr. L. Prabhakar Reddy, learned Standing Counsel for TSIIC, submits that the discretion of the respondent No.2 should be left wide open to decide whether the appellant should be permitted to change its line of production or not. However, till the said decision is taken by the respondent No.2 in due consultation with the Government, the appellant cannot be permitted to continue its production of Ayurvedic Cosmetics and other products mentioned hereinabove. Therefore, the learned counsel pleads that the second part of the impugned order should not be modified by this Court.

A perusal of the sale deed dated 05.10.2007 clearly reflects that while the land was given “for the purpose of setting up of an industry for manufacture of Readymade Garments only”, the Corporation and also other competent authorities did keep the discretion within themselves to approve any change in the line of activity carried out by the appellant. Therefore, the discretion should not have been limited by the observations made by the learned Single Judge “to keep in mind the purpose of establishing the Apparel Export Park”. Hence, the particular words “*by keeping in mind the purpose of establishing Apparel Export Park*” should

be deleted from the impugned order. Hence, the impugned order should be read as existing without these words.

However, the second prayer made by the learned counsel for the appellant is clearly unacceptable. For, till the approval is given by the respondent No.2-TSIC in due consultation with the Government, the appellant cannot be permitted to change the line of production. Therefore, the embargo imposed by the learned Single Judge in the impugned order shall continue.

In order to balance the conflicting interests of the appellant and of the respondent No.2, it would be in the interest of justice to direct the respondent No.2 and the respondent No.1-Government to take a decision on the representation dated 01.12.2016 within a period of four weeks from the date of receipt of a certified copy of this judgment.

With these directions, the appeal stands disposed of.

As a sequel, Miscellaneous Petitions, pending if any, shall stand closed. There shall be no order as to costs.

(RAGHVENDRA SINGH CHAUHAN, ACJ)

(A.RAJASHEKER REDDY, J)

Date: 09.04.2019
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