

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.11626 OF 2019

ORDER:

The case of the petitioner is that petitioner and his other family members are the absolute owners of premises bearing No.5-8-110/1 to 5 situated at Nampally, Main Road, Hyderabad known as M/s.Shalimar Furniture's showroom in an extent of 700 square yards. That the petitioners proposed to establish an Auto L.P.G Dispensing unit in the said premises under licence from M/s.SHV Energy Ltd., Hyderabad franchises of M/s.Super Gas. Clause 47 of Static and Mobile Pressure Vessels (Unfired) Rules, 2016 (SMPV (U) Rules 2016) provides for an NOC from the District Authority who is the 2nd respondent for establishing the said unit. In terms of provisions of SMPV (U) Rules, 2016 the drawings of petitioner's proposed installation, storage facility etc., were prepared and got approved by the competent authority i.e.M/s.Petroleum and Explosives Safety Organization (PESO) at Nagpur, vide communication dated 01-01-2019 and their Principal M/s.SHV Energy Private Ltd., submitted an application dated 05-01-2019 to the 2nd respondent under Clause 47 of the SMPV (U) Rules, 2016. The said authority instead of considering their application for NOC in proper perspective had rejected the same by considering things which are not relevant for the purpose of the Rules under Explosives Act and relied upon their internal circular memo

viz., L&O No.M/8/2745/06, dated 06-07-2006 and was refusing to consider his request for NOC. On that, the petitioner filed WP.No.5633 of 2019 on 18-03-2019 and the 2nd respondent having resisted the writ petition and passed an order dated 20-03-2019 rejecting the request of the petitioner for NOC. That the petitioner filed appeal under clause 59 of SMPV (U) Rules, 2016 to the 1st respondent on 02-04-2019 and the same was assigned File No.3645. But instead of deciding the appeal, the 1st respondent issued Memo dated 18-04-2019 addressed to the 2nd respondent advised him to examine the same and take necessary action in the matter. Aggrieved by the same, the present writ petition is filed.

Heard learned counsel for the petitioner, who submits that the appellate authority without application of mind instead of disposing the appeal issued the impugned memo dated 18-04-2019 driving the petitioner to the 2nd respondent who passed the original order which is in violation of principles of natural justice. He also submits that no notice was issued before passing the impugned order dated 18-04-2019.

Heard learned Assistant Government Pleader for Home who submits that the appellate authority will decide the issue on merits.

In this case it is to be seen that when Rule 59 of SMPV (U) Rules, 2016 provides for appeal and when the same is

filed by the petitioner, instead of deciding the appeal, the appellate authority has driven the petitioner to original authority in violation of principles of natural justice. The manner in which the impugned order passed is without any application of mind and this Court does not expect Principal Secretary to Government to pass such an order.

In view of the above facts and circumstances of the case, the impugned order is set aside and the appellate authority is directed to dispose of the appeal within a period of two weeks from the date of receipt of a copy of this order after giving an opportunity of hearing to the petitioner and pass a speaking order.

Accordingly, the writ petition is allowed. As a sequel to the disposal of this petition, miscellaneous petitions, if any, pending shall stand closed.

A.RAJASHEKER REDDY,J

18-06-2019

Nvl

