

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No. 21872 of 2019

ORDER:

This writ petition is filed challenging the Proceedings No. C.285/Mktg/Parcel/CPLP-NP/2018/Vol-V, dt.13.09.2019, issued by the 2nd respondent by confirming the orders passed by the 3rd respondent vide proceedings No.C/C/37/Leasing/VPH/18646/18645/2018-19/1, dated 27.08.2019 in cancelling the cargo agreement dt.14.09.2018.

Learned Counsel for the petitioner submits that the ground on which the petitioner's lease agreement is cancelled is that the petitioner is transporting wet goat skin in the parcel van alleging that the same is prohibited, though the same is not prohibited by the Railways. He also submits that Tariff-25, which is made basis for the impugned order has no application. He further submits that Tariff-20 is applicable and that there is no prohibition for transportation of wet skin, but, without considering the said aspect and without issuing any notice, the impugned action is taken which is in violation of principles of natural justice and without application of mind. He further submits that as already punishment is imposed against the petitioner and a fine amount of Rs.52,500/- is paid by the petitioner, question of termination of agreement does not arise as per clauses 8.8 read with 8.9 of the agreement.

Learned Standing Counsel also submits that tariff-25 itself is applicable as per clause 8.8 read with 8.9 of the agreement which is seriously disputed by learned counsel for petitioner.

Apart from raising several contentions on merits and filing counter disputing the averments in the writ affidavit, the learned Standing Counsel could not dispute the fact that no notice was issued to the petitioner before taking the impugned action including black listing the petitioner which is in violation of principles of natural justice.

Black listing of a person entails in civil consequences. As such, notice is required to be given to the petitioner. More so, the petitioner disputes the application of tariff itself.

All these aspects should have been considered by the respondents who cancelled the agreement. The respondents could have been issued notice to the petitioner before taking the impugned action against the petitioner. On the sole ground of violation of principles of natural justice the impugned order is liable to be set aside.

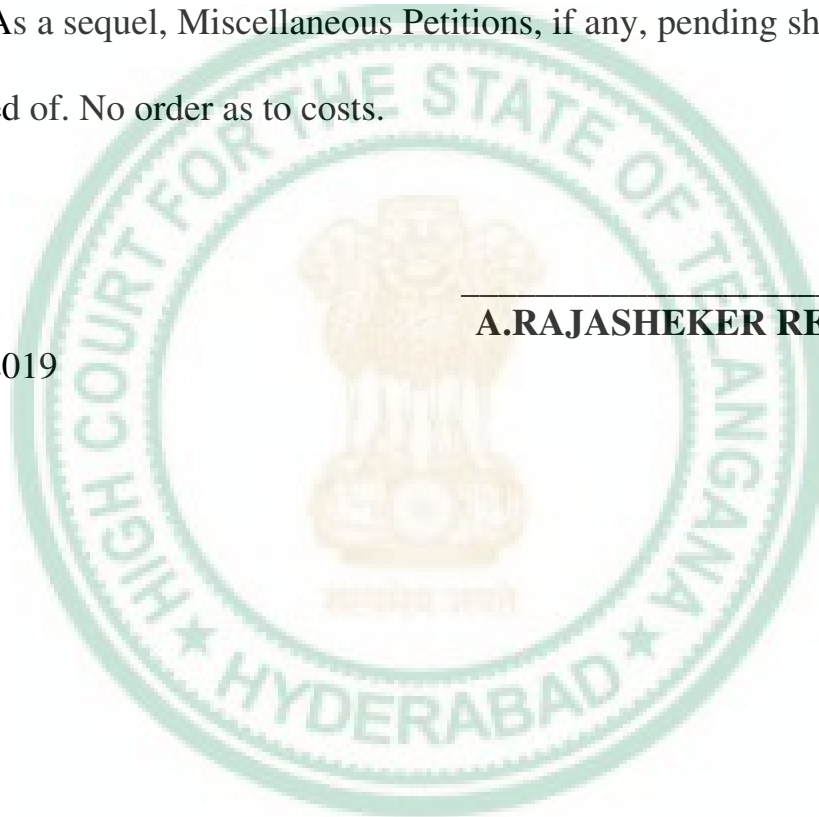
Accordingly, without expressing any opinion on merits, the writ petition is disposed of setting aside the impugned order dt.13.09.2019 passed by the 2nd respondent vide Proceedings No. C.285/Mktg/Parcel/CPLP-NP/2018/Vol-V, confirming the orders passed by the 3rd respondent vide proceedings No.C/C/37/Leasing/VPH/18646/ 18645/ 2018-19/1, dated 27.08.2019.

The Petitioner is directed to submit explanation treating the impugned order as show cause notice, within a period of two weeks from today and on such submission, competent authority shall consider the same and take action, in accordance with the agreement and relevant regulations, within a period of two weeks there after. If the petitioner fails to submit explanation within the stipulated period, it is open for the respondents to proceed further in the matter. No order as to costs.

As a sequel, Miscellaneous Petitions, if any, pending shall stand disposed of. No order as to costs.

12.11.2019
tk.

A.RAJASHEKER REDDY, J



THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No. 21872 of 2019

12.11.2019

tk