

THE HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.26734 OF 2018

DATED :14.03.2019

Between :

M/s.Amar Hospital,
R/o.H.No.7-1-219, Santhosh Nagar,
Near Old Bus Stand, Jagtial Proper and District,
Rep., by its Proprietor Dr.Pallerla Srinivas,
S/o.Pallerla Kishan, Age : 43 yrs.

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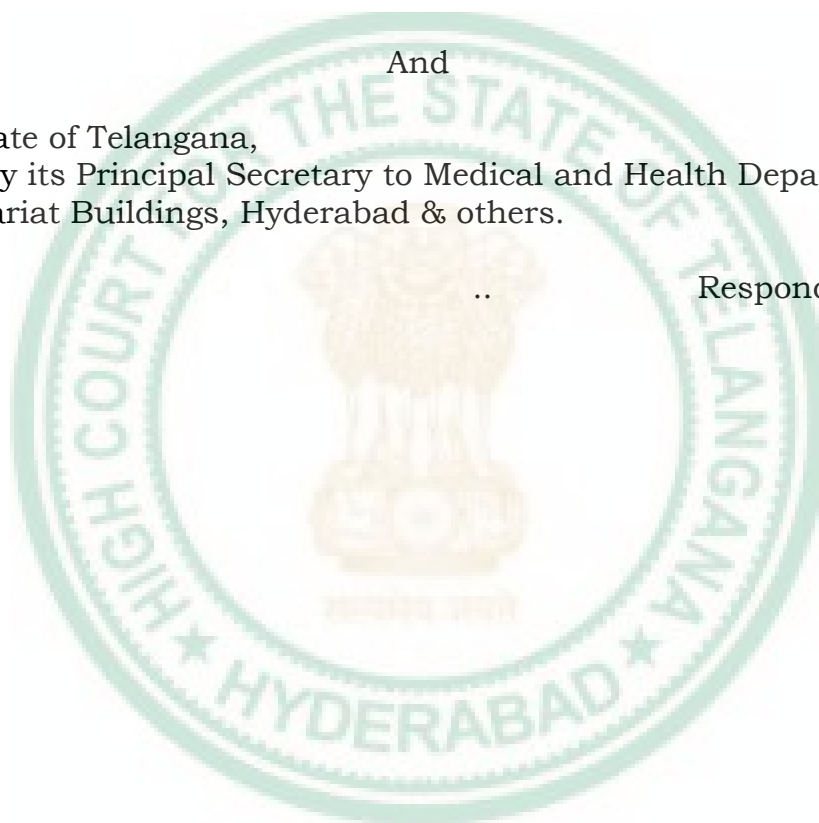
Petitioner

And

The State of Telangana,
Rep., by its Principal Secretary to Medical and Health Department,
Secretariat Buildings, Hyderabad & others.

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Respondents



This court made the following :

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ORDER :

Heard learned counsel for petitioner, learned Government pleader for Medical & Health for respondents 1 and 2, learned Government Pleader for Revenue for respondents 4 and 5 and Sri Y. Bala Murali, learned counsel for respondent No.3.

2. Petitioner applied for grant of license to establish hospital in Jagtial town. The application was processed and accordingly, license was granted on 22.10.2014 for a period of five years i.e., would expire on 21.10.2019. Petitioner while applying for grant of license to establish hospital, he has given the particulars of property to locate the hospital as house bearing No.7-1-219, Santhosh Nagar, near Old Bus Stand Jagtial. Petitioner is not the owner of said property. According to petitioner the property belongs to his brother-in-law-3rd respondent herein and petitioner has occupied the said premises by paying rents to his brother-in-law. His brother-in-law was not living in India when he applied for license for establishment of hospital, and basing on the oral consent of his brother-in-law, he has applied for grant of license to establish the hospital. At the time of applying for grant of license, he has also submitted declaration stating that he is the tenant of subject premises. The application was processed and accordingly license was granted. While so, the owner of property complained to the competent authority that without obtaining lease from him and without obtaining permission from him, application was made for establishment of hospital and the same is illegal. In response to the complaint

filed before the competent authority, notice was issued on 16.07.2018 calling upon the petitioner to file valid lease deed granted in his favour by the owner of property. In response, petitioner contended that there is no written lease deed and there is only oral lease deed as the owner of property was his brother-in-law, who was not living in India at that time and with his permission only he has applied for grant of license. Not accepting the said contention, by the order impugned recommendation was made by the District Medical and Health Officer, Jagtial, to cancel the hospital registration granted in favour of petitioner.

3. Vide G.O.Ms.No.135 dated 28.04.2007, The Andhra Pradesh Allopathic Private Medical Care Establishments (Registration and Regulation) Rules, 2007 (for short 'the Rules') are notified. Rule 4 of the Rules requires Registration. According to Sub-Rule 'a' application should be submitted in prescribed form to the District Registering Authority for registration of private medical establishment. Column No.4 of the application form requires furnishing of proof of occupation in the form of ownership or lease. Thus, the said column is very clear that the person should submit documentary proof in support of lease or rent or ownership for grant of license. Petitioner discloses that he is in occupation of building and that he is a tenant, but has not enclosed documentary proof of lease hold rights vested in him. What was enclosed was in the form of rental agreement dated 25.08.2014, unilaterally prepared by him, as if he has taken the premises on lease from the owner of property. Admittedly, there is no lease granted to him by the owner of

property and no lease documents are enclosed to the application submitted by petitioner. Processing of application under Rule 4 is subject to fulfillment of conditions mentioned in the prescribed form and apparently petitioner did not comply with the requirements. In other words, petitioner has established hospital in the premises belonging to 3rd respondent without his consent. The lease agreement is necessary for grant of license but no lease deed was filed. The owner of property categorically asserts that he has never authorized the petitioner to establish hospital. The decision taken by the competent authority impugned herein cannot be held as illegal exercise of power and authority, conferred on him nor can be classified as arbitrary and discriminatory warranting interference by this Court.

4. Learned counsel appearing for 3rd respondent sought to contend various aspects concerning the subject property and *inter se* disputes. This Court is not expressing any opinion on their respective stands on the subject property and leaves it open to the respective parties to work out their remedies.

5. The only issue considered in this writ petition is with reference to validity of the order impugned in the writ petition, canceling the license granted to petitioner to run hospital in the subject premises belonging to 3rd respondent, as it was obtained without the consent of owner of property. I do not see any illegality in the order impugned warranting interference by this Court.

6. Writ Petition is accordingly, dismissed. However, having regard to the fact that hospital was established in the year 2014

and is being run for the last more than four years, petitioner is granted six weeks time from today to make alternative arrangements to re-locate the hospital and to submit appropriate application to the competent authority for grant of permission to establish hospital. Until then, petitioner may be permitted to run hospital in the existing premises subject to compliance of statutory requirements. Pending miscellaneous petitions, if any, shall stand closed.

14th March, 2019
Rds

P.NAVEEN RAO,J

