

THE HON'BLE SRI JUSTICE T.VINOD KUMAR

WRIT PETITION No.1479 OF 2020

ORDER:

The present Writ Petition is filed questioning the proceedings issued by the 4th respondent in Rc. No.20/EsttDHQH/NML/2020 dated 20.01.2020 whereby the petitioners agreement to operate Jeevandhara Medical & Generic Store, MCH Hospital, Kalanagar, near Nirmal Municipality, has been terminated, as being illegal, arbitrary, unconstitutional and with a consequential relief to direct the respondent authorities to restore the agreement of the petitioners to operate the Jeevandhara Medical & Generic Stores.

Heard Sri C. Naresh Reddy, learned Counsel for the petitioner and learned Government Pleader for Medical.

Learned Counsel for the petitioners submits that in response to the notice dated 08.01.2020 issued by the 4th respondent, the petitioner has been given reply thereto through Counsel on 17.01.2020, and the said reply has been sent to the respondent at the address mentioned in the notice through private courier as well as by registered post under registered envelope bearing No.RN078489547IN. Despite the petitioner having filed a reply to the notice dated 08.01.2020, the 4th respondent authority passed the impugned order dated 20.01.2020 terminating the agreement of the petitioner for running Jeevandhara Generic Medical Store, MCH hospital, Kaila Nagar, near Nirmal Municipality with immediate effect and with further instructions to vacate the medical store immediately within seven days. It is submitted by the learned Counsel for the petitioner that despite the petitioner

sending the reply to the show cause notice by courier as well as by registered post, the respondent authorities have refused to receive the same and as such, the reply sent through courier has been returned with an endorsement "*party refused*" to receive the document. In so far as the copy of the reply which is stated to have been sent by registered envelope, the said envelope has been returned with an endorsement "*addressee unclaimed return to the sender*". Learned Counsel for the petitioner by drawing attention of this Court to the attempts made by the postal authorities in seeking to serve the said envelope on the respondent from 20.01.2020 to 26.01.2020 would submit that the action of the respondent authority in not receiving a registered envelope clearly shows dereliction of duty on the part of the 4th respondent. The learned Counsel thus, submitted that the impugned order is in violation of principles of natural justice and is vitiated.

Learned Government Pleader, on the other hand, submits that the reply of the petitioner to the notice has been received by the authorities only on 25.01.2020. In the mean time, the 4th respondent authority has passed the impugned order, since the authority has not received any reply. Further, the learned Government Pleader also submits that the reply which is sent by the petitioner by registered post is with an incomplete address and for the said reason that the reply was not delivered to the authorities in time, which if delivered could have been taken note by the authorities before the orders passed.

Opposing the above submission, learned Counsel for the petitioner submits that the registered envelope which is addressed

to the 4th respondent has been returned by the postal authorities having made efforts to serve the same on the 4th respondent for six days starting from 20.01.2020 to 26.01.2020 and the same being returned as unclaimed shows that the petitioner offered its explanation in time, though the authority has failed to take note of the same by accepting the delivery of the registered envelope.

Having regard to the submissions made on either side and perusing the material on record, the action of Government authorities refusing to take delivery of the registered letters/ courier merely because the authorities find the same to be having received from a person to whom a notice is issued, cannot be justified or approved. However, without going into the other issues as raised by either side, it is seen that in response to the notice dated 08.01.2020 issued by the 4th respondent authority, since the petitioner has sent its response thereto by its reply dated 17.01.2020, and the respondent authorities being in receipt of the same now, though belatedly, this Court is of the view that the ends of justice would be met if the authorities are directed to consider the same and pass orders afresh in accordance with law.

Having regard to the same, the impugned order dated 20.01.2020 is hereby set aside and the 4th respondent is further directed to consider the reply of the petitioner dated 17.01.2020 sent by the petitioner through his Counsel and act in accordance with law in adjudicating the issue by taking into consideration, the explanation offered by the petitioner and after affording an opportunity of personal hearing to the petitioner whereat the

petitioner is free to file additional material papers, documents, if any, in support of his contentions.

Accordingly, the Writ Petition is disposed of. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

JUSTICE T.VINOD KUMAR

Date: 30.01.2020.

MRKR

