

**HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH
(Special Original Jurisdiction)**

WEDNESDAY, THE TWENTY SEVENTH DAY OF JANUARY
TWO THOUSAND AND SIXTEEN

PRESENT

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION NO: 2170 OF 2016

Between:

- 1 WhiteField Paper Mills Ltd., a Public Company incorporated under the provisions of the Companies Act, 1956, having its registered office at Peddada Vari Street, Bapuji Nagar, Kovvur, West Godavari District, Andhra Pradesh, rep. by its Chairman, Mr. T. Srinivas Rao.
- 2 Mr. T. Srinivas Rao, S/o. Late Satyanarayana Sarma, aged about 50 years, resident of 15-4-19, Chamarthivari Street, Bapuji Nagar, Kovvur - 534 350, West Godavari District.

.....PETITIONERS

AND

- 1 State of Andhra Pradesh, rep. by its Principal Secretary, Industries and Commerce (Policy and Investment) Department, Secretariat Buildings, Hyderabad.
- 2 The District Collector, West Godavari District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an appropriate writ, order or direction, more particularly one in the nature of Writ of mandamus declaring the action of the 1st Respondent in issuing G.O.Ms.No.17, Industries and Commerce (Policy and Investment) Department dated 13.01.2016 directing the 2nd Respondent to resume Ac.271-35 cents of land handed over to the 1st Petitioner to set up an Integrated Pulp and Paper Mill with a capacity of 200,000 MTS per annum in R.S.Nos.32 and 49/2, Bayyaram Villages, Tallapudi Mandal, West Godavari District, by cancelling Memorandum of Understanding dated 27.03.2006, G.O.Rt.No.323, Industries and Commerce (IP) Department, dated 30.05.2006 and G.O.Rt.No.1227, Revenue (Assn.IV) Department, dated 30.05.2006, whereby the aforesaid land was handed over to the 1st Petitioner and various incentives were sanctioned / extended for establishment of the aforesaid mill, as wholly without jurisdiction, arbitrary, illegal, unjust, violative of the fundamental and constitutional rights guaranteed under the Constitution of India, violative of the principles of natural justice, contrary to the provisions of the Special Economic Zones Act, 2005 and the Rules made thereunder, and consequently set aside

G.O.Ms.No.17, Industries & Commerce (Policy & Investment) Department, dated 13.01.2016 by directing the Respondents not to interfere with the peaceful possession and enjoyment of the 1st Petitioner over the aforesaid land.

WPMP NO. 2751 OF 2016

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to suspend the operation of G.O.Ms.No.17, Industries & Commerce (Policy & Investment) Department, dated 13.01.2016 by directing the Respondents not to interfere with the peaceful possession and enjoyment of the 1st Petitioner over the aforesaid land, pending disposal of the above Writ Petition.

**Counsel for the Petitioners : SRI C.V.MOHAN REDDY, SENIOR COUNSEL
FOR SRI M.KARTHIK PAVAN KUMAR**

**Counsel for Respondent No.1 :
GP FOR INDUSTRIES AND COMMERCE (AP)**

Counsel for Respondent No.2 : GP FOR REVENUE (AP)

The Court at the stage of admission made the following ORDER

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION No. 2170 of 2016

ORDER:

1. The petitioners are aggrieved by the action of the State as embodied in G.O.Ms.No.17, Industries & Commerce (Policy & Investment) Department, dated 13.01.2016, whereby the Memorandum of Understanding entered into by and between the first petitioner and the Government of Andhra Pradesh was cancelled and the District Collector, West Godavari District, was requested to take necessary immediate action for resumption of the land.

2. Sri C.V. Mohan Reddy, learned senior counsel appearing for the petitioners, contended that this action was in violation of the principles of natural justice as the first petitioner was not even put on notice about the proposed cancellation despite an extension having been granted earlier by the State under G.O.Ms.No.201, Industries and Commerce (IP & INT) Department dated 04.12.2014.

3. This contention warrants consideration as perusal of the earlier G.O.Ms.No.201 dated 04.12.2014 reflects that a show cause notice had been issued by the State under its Memo dated 19.12.2013 but upon considering the communications of the first petitioner dated 30.10.2013 and 27.10.2014, the State extended the time for achieving financial closure in the first instance up to 31.03.2015 and if such closure was achieved, further time of 18 months was to be granted for fully executing the project. According to Sri C.V. Mohan Reddy, learned senior counsel, the first petitioner has achieved financial closure as defined by the Reserve Bank of India. However, the understanding of the State in this regard seems to be at variance as is clear from paragraph 12 of the impugned G.O.Ms.No.17 dated 13.01.2016. In

any event, if the State was of the opinion that the first petitioner had failed to act in accordance with the extension orders, it necessarily had to put it on notice before resorting to cancellation of the MOU. Significantly, the State had earlier issued a show cause notice in 2013 pursuant to which the extension had been granted. That being so, the impugned G.O. is clearly in violation of the principles of natural justice as there is no mention therein that the first petitioner was even put on notice prior to the cancellation effected thereunder. However, as the State has already resorted to this drastic step, this Court is of the opinion that the interest of justice would be sufficiently served by treating the contents of the impugned G.O.Ms.No.17 dated 13.01.2016 as a show cause notice in the first instance and allowing the petitioners to respond thereto by submitting their explanation in the context of what was required of them under the extension orders contained in G.O.Ms.No.201 dated 04.12.2014. Pending consideration of the explanation, the impugned G.O.Ms.No.17 dated 13.01.2016 shall be kept in abeyance and shall not be given effect to. After considering the petitioners' explanation and giving them due opportunity of hearing to explain their stand, it shall be open to the State authorities to either cancel, modify, or affirm the impugned GO by way of a separate proceeding which shall be duly communicated to the petitioners.

The Writ petition is disposed of with the above directions. Pending miscellaneous petitions, if any, shall also stand closed in the light of this final order. No order as to costs.

SD/-T.RANGA BABU
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. The Principal Secretary, Industries and Commerce (Policy and Investment) Department, State of Andhra Pradesh, Secretariat Buildings, Hyderabad.
2. The District Collector, West Godavari District.
3. Two CCs to GP FOR INDUSTRIES AND COMMERCE (AP), High Court of Judicature at Hyderabad (OUT)
4. Two CCs to GP FOR REVENUE (AP), High Court of Judicature at Hyderabad (OUT)
5. One CC to SRI M.KARTHIK PAVAN KUMAR, Advocate (OPUC)
6. Two CD Copies

SA

HIGH COURT

SK,J

DATED 27/01/2016

ORDER

W.P.NO.2170 OF 2016



DISPOSING OF THE W.P

AT THE STAGE OF ADMISSION

WITHOUT COSTS.

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3/2/16