

(2017) 02 KAR CK 0113
In the Karnataka High Court
Case No : 100112 of 2016

MR. VEERAPPA HOLABASAPPA ARAKERI

APPELLANT

Vs

THE STATE OF KARNATAKA & ANR.

RESPONDENT

Date of Decision : 01-02-2017

Acts Referred:

[Karnataka High Court Act, 1961](#), [Section 4](#)
- Appeals from decisions of a single Judge of the High Court

Citation : (2017) 02 KAR CK 0113

Hon'ble Judges : Vineet Kothari, Sreenivas Harish Kumar

Bench : DIVISION BENCH

Advocate : MALLIKARJUNSWAMY B HIEMATH, M.KUMAR

Judgement

1. The appellant-Veerappa Holabasappa Arakeri, proprietor of M/s. Shilpa Infotech, Station Road, Gudigeri, Kundahola Taluk, Dharwad District, has filed the present appeal before us, aggrieved by the order passed by the learned Single Judge on 23rd September 2015 disposing of his Writ Petition No.84864 of 2013 (GM-RES) with a liberty to the petitioner to avail the remedy by way of filing a civil suit against the respondent-State and Department of Information Technology.

2. The petitioner approached the Court by way of aforesaid Writ Petition, aggrieved by the order passed by the Under Secretary, Department of Information Technology on 31st July 2013 canceling the licence given to the petitioner for running a Rural Business Process Outsourcing Centre, for imparting training to the persons in rural areas. According to the petitioner, he had commenced his business in the year 2011, but without giving any opportunity of hearing to the petitioner, the Respondent-State cancelled the said licence, giving the reason that the business was not being run under the licence given to the petitioner in terms of the relevant Rules and Regulations and terms and conditions of giving such licence. The petitioner was also entitled to certain monetary benefits like subsidy for running such a rural BPO, which was also not given to the petitioner. The petitioner assailed this order principally on the

ground that principles of natural justice were not complied with by the respondent No.1-authority while canceling his licence for running the said rural BPO.

3. The learned counsel for the petitioner, Mr.Mallikarjunswamy B.Hiremath, brought to our notice some reports given by respondent No.2, namely Karnataka Bio-Technology and Information Technology Services, Bengaluru, headed by a Government authority, according to which, during the inspection carried out in the years 2011 and 2012, the employees were found to be working in the said rural BPO run by the petitioner.

4. The learned counsel for the petitionerappellant, Mr.Mallikarjunswamy B.Hiremath, urged before us that nothing is specified for non-compliance of the Rules and Regulations was pointed out by the respondent No.1 while passing the impugned order at Annexure "A" dated 31st July 2013 and the adverse civil and financial consequences also ensued for the petitioner under the impugned order and in view of the breach of principles of natural justice, the impugned order deserves to be quashed.

5. He submitted that the remedy by way of civil suit in such cases could not be availed by the petitioner-appellant in view of the evidence of the 2nd respondent's reports already being available on record with the respondent-State itself.

6. The learned Government Advocate, however, supported the impugned order and urged before us that since the learned Single Judge has only relegated the petitioner for a remedy by way of filing a civil suit, no interference in the same deserves to be made by this Court.

7. We have heard the learned counsels at some length and given our dispassionate consideration to the rival contentions.

8. It is true that some facts were required to be established and averred at the competent forum for establishing that the petitioner was entitled to run the said rural BPO under the licence given to him, but it is equally true that the impugned order, Annexure "A" dated 31st July 2013, was passed by the respondent No.1 - Under Secretary without giving any prior opportunity of hearing to the petitioner. Merely saying that the rural BPO was not being run by the petitioner-appellant in accordance with the terms and conditions of the licence is not enough. No specific allegation or case was stated in any show-cause notice given by the respondent to the petitioner before passing the impugned order on 31st July 2013. The principles of fairness and reasonableness which are required to be complied with in the matters of granting such work orders or licence by the State authorities, requires the compliance with the principles of natural justice in such cases.

9. There is no material on record before this Court to indicate or establish that the petitioner was given any such opportunity of hearing before passing of the

impugned order. Therefore, in what manner the petitioner did not comply the terms and conditions or relevant Rules and Regulations is not known and no such specific evidence or documents have been placed on record of this Court. The non-compliance of principles of natural justice in such cases renders the impugned order non-est as hit by the principles of natural justice and such orders cannot be sustained.

10. Therefore, we are inclined to allow the present writ appeal and set aside the order of the learned Single Judge dated 23rd September 2015 as well as the impugned order, Annexure "A", dated 31st July 2013. We leave it free for the respondentconcerned authority to proceed with the matter now, by serving appropriate show-cause notice upon the appellant-petitioner and give him a reasonable opportunity of being heard in the matter and then pass appropriate speaking and reasoned order in accordance with law.

11. The said process may be completed within a period of three months from today and for that purpose, petitioner may appear before the respondent in the first instance on 15th February 2017. With the aforesaid observations, the writ appeal is disposed of.