

THE HON'BLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

WRIT PETITION No.34693 OF 2022

ORDER:

1. The present writ petition is filed under Article 226 of the Constitution of India, claiming the following relief:

“Writ of Mandamus declaring the action of the respondents in imposing condition of limiting the area of jurisdiction of the petitioner to Guntur District only insofar as the petitioner repair works are concerned is arbitrary and violative of Articles 14, 19 and 21 of the Constitution of India and consequently direct the respondents to delete such condition and allow the petitioner to work throughout the State of Andhra Pradesh wherever he gets customers and to grant costs of the proceedings”

2. Learned counsel for the petitioner submits that the petitioner – M/s.Bharath Weighing Scales, as stated by its Proprietor is that, the petitioner obtained license from the 2nd respondent vide License No.GNT/RL-133/2007 dated 09.02.2022. However, pursuant to the application of the petitioner for renewal of the license for all over the State of Andhra Pradesh, the 2nd respondent granted license for the period from 15.02.2022 to 31.12.2022 only to the extent of Guntur District. The petitioner challenged imposition of the condition limiting the operation of

repair work of the petitioner only to Guntur District in the present writ petition.

3. Learned Government Pleader for Civil Supplies filed counter affidavit on behalf of Respondent No.2 – Controller, Legal Metrology, Vijayawada, denying the allegations. He submits that, Department of Legal Metrology has renewed the license of the petitioner from time to time. But, vide Gazette Notification No.19 dated 07.05.2015 and Proceedings No.14285/L/2016 dated 09.06.2016, the Controller of Legal Metrology, Andhra Pradesh limited the repairers territorial jurisdiction to one district where the workshop is located, keeping in view of the increasing number of establishments and enhanced volume of work.

4. Heard learned counsel for the petitioner, learned Government Pleader for Civil Supplies and perused the material available on record.

5. In the case on hand, the 2nd respondent issued license dated 09.02.2022 granting license to the petitioner to repair weights, measures, weighting and measuring instructions with jurisdiction to operate his business to the extent of entire Guntur District only. The reason assigned by the learned Government Pleader is that the petitioner had established all the required

laboratory, workshop at Guntur District. Therefore, the restriction imposed in the license is in accordance with Andhra Pradesh Legal Metrology (Enforcement) Rules, 2011 (for short 'Rules, 2011'), under which the 2nd respondent is empowered to issue license.

6. For better appreciation, Section 23(2) of the Legal Metrology Act, 2009 is extracted hereunder:

(2) For the purpose of sub-section (1), the Controller shall issue a license in such a form and manner, on such conditions, for such period and such area of jurisdiction and on payment of such fee as may be prescribed.

7. Similarly, Rule 11(7) of the Rules, 2011 the 2nd respondent is empowered to issue general or special directions and issue license imposing conditions. Rule 11(7) reads as under:

(7) Every manufacture / repairer / dealer licenced for the jurisdiction to which licence is granted under the Act and these rules, shall maintain such workshop / laboratory / equipments / tools / registers etc. as the case may be, and such other terms and conditions specified by the Controller of Legal Metrology. Any general or special directions and such licence conditions issued by the Controller, shall be binding on the persons to whom the licence has been granted.

8. A conjoint reading of Section 23(2) and Rule 11(7), extracted above, it is clear that the 2nd respondent i.e. the Controller of Legal Metrology is vested with powers to issue license and also fix

the jurisdiction of a licensee. Therefore, in the present case, the impugned license granted in favour of the petitioner is in accordance with the Act 23(2) of the Act and Rule 11(7) of the Rules, 2011.

9. Undisputedly, the Controller of Legal metrology is the competent authority for granting general or special directions and for granting license with conditions adhering to the provisions under the Act and Rules framed thereunde. When once the license was granted with conditions by the Controller, in accordance with the Rules, the licensee shall abide by such conditions.

10. One of the contentions raised by the learned counsel for the petitioner is that restriction of jurisdiction to the petitioner is only vested with the 1st respondent but not the 2nd respondent, as such, the 2nd respondent exceeded his powers contrary to Rules, 2011, thereby the impugned license is not valid and not sustainable. In support of his contentions, learned counsel for the petitioner placed reliance on the judgment of this Court in **M.V. Krishnaiah vs. The Controller of Legal Metrology**¹. But, on perusal of the ratio laid down by this Court, unless and until the 1st respondent framed rules, the 2nd respondent cannot exercise its power for granting licenses and impose conditions.

¹ W.P.No.29894 of 2011 dated 11.06.2015

But, in the case on hand, the 1st respondent framed Rules granting powers to the 2nd respondent for issuing licenses and imposing conditions if necessary. Therefore, the ratio which is relied on by the learned counsel for the petitioner does not hold the field in the facts and circumstances of the case on hand.

11. This Court accepts the contention of the learned Government Pleader that the Gazette Notification No.19 dated 07.05.2015 and Proceedings No.14285/L/2016 dated 09.06.2016 are not violative of Article 19(1)(g) of the Constitution of India and do not infringe the fundamental right of the petitioner to carry on his business in a particular District.

12. In view of the foregoing discussion, writ petition lacks merits and does not warrant interference by this Court.

13. In the result, writ petition is dismissed. No costs.

14. Consequently, miscellaneous applications pending if any, shall stand dismissed.

JUSTICE VENKATESWARLU NIMMAGADDA

Date:11.01.2024

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