

IN THE HIGH COURT OF ANDHRA PRADESH: AMARAVATI

HON'BLE MR. JUSTICE DHIRAJ SINGH THAKUR, CHIEF JUSTICE

&

HON'BLE MR. JUSTICE R. RAGHUNANDAN RAO

WRIT APPEAL No.1179 of 2023

The Founder and Chairman
M/s. Sweekaar Rehabilitation
Institute for Handicapped, Secunderabad
At Putlampalli, Kadapa Mandal,
Represented by GPA Holder
Ch. Sridhar, S/o. Ch. VenkataSattaiah,
Aged about 36 years, R/o.S.No.104 GF
Santhosh Nilayam, Sri Sai Enclave,
Old Bowenpally, Secunderabad.

...Appellant

Versus

The State of Andhra Pradesh, Revenue Department,
Rep. by its Principal Secretary to Government,
Secretariat Buildings, Velagapudi,
Amaravati – 522 237, Andhra Pradesh and three others.

...Respondents

Mr. K. V. Simhadri, Sr. Counsel for Ms. M. Manikya Veena, Counsel for the appellant.

GP for Revenue, Counsel for the respondents.

Date : 17.05.2024

PER DHIRAJ SINGH THAKUR, CJ:

1. The present writ appeal under Clause 15 of the Letters Patent has been preferred against the judgment and order dated 15.09.2023 passed in W.P.No.5175 of 2020.

2. Briefly stated, the material facts are that the petitioner started an Academy of Rehabilitation Sciences at Secunderabad in the year 1977 called Sweekaar. It is stated that this was a non-profit and non-commercial voluntary organisation which was aimed at rendering services to the mentally challenged, physically disabled, deaf, aged, drug addicts, widows and destitute and was thus a Multi-speciality Rehabilitation Centre. The petitioner claims that in the various programmes run by it, six thousand seven hundred and twenty Rehabilitation Professionals were trained and serving all over the country as also the abroad and catering to the requirements of approximately 70.45 lakhs of people suffering from the disabilities and the problems of addiction etc., most of which people belong to the poorer sections of the society.

3. It is stated that the institute run by the petitioner is the first of its kind in India and runs various training programmes viz. Diploma, Degree, PG and Ph.D. courses, all of which are recognised by the State and the Central Government as also the Universities and the Rehabilitation Council of India (for short "RCI").

4. It is stated that Sweekaar is a certified ISO 9001 institute and has received several national and international awards. Apart from this, it is claimed that the Founder Chairman of Sweekaar has received 56 national and international awards out of which six are from the President of India.

The Founder Chairman is stated to be a practicing Paediatrician, Rehabilitation Specialist and Ph.D. in Psychology.

5. It is also stated that considering the contributions made in the field, the then Chief Minister Dr.Y.S.R. Reddy, requested Sweekar to start a campus in Kadapa District to serve the mentally challenged and disabled in the Rayalaseema area. It is stated that pursuant to the aforementioned request, a parcel of land measuring ten acres was granted at a nominal cost of Rupees Fifty Thousand per acre, subject to the terms and conditions as laid down under Order 24 of Board of Revenue Standing Orders (for short "B.S.O.") vide G.O.Ms.No.1405, Revenue (ASN.IV) Department, dated 03.11.2007. The land was allotted in the name of the petitioner society i.e., Founder and Chairman, Upkaar and Sweekaar, Secunderabad. Later, the nomenclature is stated to have been changed to 'Sweekar Rehabilitation Institute for Handicapped' vide G.O.Ms.No.432, Revenue (Assn.IV) Department, dated 05.03.2009.

6. It is further stated that an area of approximately ten thousand square feet has been constructed over the land in question while the boundary has been well marked with cement poles and barbed wires. Two bore wells are stated to have been dug and provisions have been made for security, staff and others.

7. It is further stated that the petitioner institute was initially affiliated to Sri Venkateswara University, Tirupati and later to Yogi Vemana University at Kadapa. Permission is also stated to have been obtained from the RCI for recognition of the courses such as Bachelor and Diploma in Audiology, Speech and Language Pathology (BASLP), which is a four year course as also Diploma in Hearing Language and Speech, which is a two year course from 2005 onwards. It is stated that the academy has produced qualified professionals whose credentials have been approved not only by the University but also by the RCI.

8. The institute being run by the petitioner is stated to have been functioning for the past fourteen years and while being so, notice dated 27.11.2019, came to be received by the petitioner from the District Collector, YSR District, Kadapa stating that the land alienated to the institute had not fully been utilized except to a small extent and thus, conditions of alienation under B.S.O.24 had been violated. The petitioner was accordingly asked to show cause as to why the land measuring nine acres sixty five cents, which remain unutilized by the grantee/petitioner be not resumed and called for an explanation within fifteen days.

9. Response dated 30.12.2019, was submitted by the petitioner wherein the stand taken was that the dream of the organisation could not be accomplished by keeping thirty five cents out of the ten acres and

therefore, it was suggested that the entire ten acres with buildings and furniture be surrendered. Financial support to the extent of seven crore was also sought by the petitioner. It is further stated that the petitioner institute was a charitable organisation which had not received any help from the Government or the corporate sector and that there was a financial crisis.

Finally, an order came to be passed by the District Collector, dated 16.02.2020, to the extent that land measuring nine acres which remained unutilized by the petitioner be resumed. The Tahsildar, Kadapa was instructed to take over the possession of the aforementioned land from the Chairman of the Sweekaar Rehabilitation Institute.

10. The order of resumption came to be challenged before the learned single Judge in W.P.No.5175 of 2020, who by virtue of judgment and order dated 15.09.2023, dismissed the same by holding that the purpose for which the land had been allotted had not been achieved and that the petitioner was not imparting education in the said institute and returned a finding that the petitioner institute has discontinued admission from the academic year 2016-17 due to financial problems. Reference in this regard was made to a letter dated 26.09.2018, addressed by the institute to the Registrar, Yogi Vemana University at Kadapa to issue the NOC for withdrawal of the corpus fund. Hence, the present letters patent appeal.

11. Learned counsel for the appellant urged that the view expressed by the learned single Judge that the institute was not imparting any education from the said premises was without any basis. With reference to the additional affidavit filed by the appellant, our attention was sought to documents which include the consolidated statement of attendance of various candidates, who had attended the academy and undergone courses between 2022 and 2024.

12. Not only this, documents were placed on record reflecting appointment of external examiners for practical examination scheduled to be held on 07.08.2023 and 08.08.2023 for the examination centre which was identified as 'Sweekar Academy of Rehabilitation Sciences at Kadapa'. It was thus urged that on facts, the learned single Judge was not justified in law, in upholding the order impugned passed by the Collector.

13. Learned counsel for the respondents, on the other hand, sought to reiterate their stand as was taken before the learned single Judge.

14. We have heard learned counsel for the parties.

15. Admittedly, while the grant made in favour of the institute was to an extent of ten acres, what was sought to be resumed was only to an extent of nine acres, leaving with the petitioner institute land measuring one acre. The reason for resumption of nine acres was that the same had not been

utilized for the purpose for which it was allotted to the petitioner. This would necessarily imply that the petitioner was continuing to conduct its activities from the area which was left out, which was outside the purview of the resumption order. Had it been a case of no activity at all being conducted by the petitioner, the notice dated 27.11.2019, issued in the first instance by the Collector would have stated so and process for resumption would then extend to the entire ten acres.

16. The learned single Judge, therefore, could not have gone into the question as to whether the petitioner was at all conducting its activities from the premises in question as that was never the scope of examination before the learned single Judge. The issue that was required to be considered in fact was whether the resumption order could legally and justifiably be issued, only because the entire extent of land granted in terms of B.S.O.24 had not been fully utilized by the petitioner, for the purposes for which it was granted and whether such a non-utilization of the rest of the land would said to be in violation of the B.S.O.24.

17. Since in the impugned order passed by the Collector a reference was made to B.S.O.24 (6) (2), which was invoked for purposes of passing the order of resumption, it would be relevant to reproduce the same.

“24. Placing State land at the disposal of a person, an institution or a local body and exemption for land revenue:

6. Condition for the grant of State land :-*(i) Lands at the disposal of Government :-*A grant of State land whether for religious, educational or other public purpose should always contain the following conditions :-

(1) The land shall be used and for no other purpose.

(2) The Government may resume the land wholly or in part with any buildings thereon, in the event of the infringement of any of the conditions of the grant. In the event of such resumption no compensation shall be payable for any improvements that may have been effected, or other works that may have been executed on the land by the grantee and the grantee shall not be entitled to the repayment of any amount that may have been paid to the Government for the grant. If there are buildings on the land the Government may direct the grantee to remove them.

(3) The Government may resume the land wholly or in part, with any buildings thereon, if in the opinion of the Government the land is required for a public purpose or for conducting mining operations. In the event of such resumption or in the event of the acquisition of the land for any reason, the compensation payable for the land and trees, shall in no case exceed the amount paid for them by the grantee or their value at the time of resumption or acquisition whichever may be less.

(4) In the event of resumption under condition (3), if there are buildings on the land, the Government shall pay compensation for them in accordance with the provisions of condition (5).

(5) In the event of the resumption of the land under condition (3) or in the event of the acquisition of the land for any reason the compensation payable for buildings or other improvement shall in no

case exceed the amount paid for them by the grantee at the time of grant or their value at the time of resumption or acquisition whichever may be less, together with the initial cost or the value at the time of resumption or acquisition, whichever may be less of any buildings erected or other improvements effected on the land by the grantee in accordance with the terms of the grant. The amount of any grant made by the Government towards the cost of the buildings or other improvements shall be deducted from the compensation payable under this condition.

(6)

(7)"

18. A reference to B.S.O.24 (6)(1) shows that the land is required to be used for no other purpose than the one for which the grant has been made. Whereas, B.S.O.24 (6)(2) which has been invoked in the present case envisages that the Government may resume the land wholly or in part with any buildings thereupon, in the event of infringement of any of the conditions of the grant.

The resumption in such a case of infringement of the condition of the grant, envisages no compensation as payable for any improvement that may have been effected on the land in question.

On the other hand, resumption under B.S.O.24 (6)(3) is permissible when the land is required for a public purpose or for conducting mining operations in which event, compensation is payable for the land, which in

no case would exceed the amount paid by the grantee. The buildings in the land in that situation would be liable to be compensated for, in accordance with B.S.O.24 (6) sub-clause 5.

19. In the present case, the conditions for grant have not been specifically placed before us. However, the purpose of the grant can be deduced in view of the Government Order bearing number G.O.Ms.No.1405 dated 03.11.2007, for the purpose of setting up Rehabilitation Institute.

20. Admittedly, the institute has been established, although its functioning may not be up to the desired level as is sought to be suggested by the Government. Nevertheless, it cannot be denied that this was an institute which was one of its kind in the entire Andhra Pradesh, which caters to the needs of that category of mentally and physically challenged citizens which appear to have not received the priority which it ought to have received either from the Government or from the public or the private sector. Nevertheless, the aims and objectives of the institute appear to be noble as can be gauged from the fact that its Founder has been recognised, as having made that contribution, for which many awards have been conferred upon him.

21. In our opinion, the resumption order is unsustainable, inasmuch as, firstly it was never the condition of the grant that the entire land would be

utilized for construction nor did the Government at the time of giving grant approved a vision document, on paper containing the layout plans, etc., which were required to be achieved, commensurate with the milestones fixed by the Government in that regard. The Government would have been justified in resuming the land in question by invoking B.S.O.24 (6) (2), only if the petitioner instead of running a service oriented institute had opened a hotel or a bar for serving drinks or for any other matter unconnected with the purpose of the grant. This, however, is not the case before us.

While it may be true that land is a natural resource, which is becoming scarce by every passing day on account of the increase in human activity in diverse fields, unless the world discovers another planet which is fit for human habitation, yet the grant made in accordance with law cannot be permitted to be resumed on grounds which are unsustainable.

22. In our opinion, B.S.O.24 (6)(2) could never have been invoked for resumption of nine acres on account of non-utilization of that portion of the land in question. In fact, the explanation rendered by the petitioner in response to the notice dated 27.11.2019, do suggest that while the intention to carry out the purpose of the grant continued, hardships on account of financial crunch and lack of financial help from the Government and other organisations was finding it difficult to run or expand its operations. If the institute like the petitioner is the only kind of the institute

in the entire State of Andhra Pradesh, then steps ought to have been taken by the Government in ensuring that the institute is nurtured in a way that its services, which are sought to be provided through the institute, actually are fortified for the benefit of the mentally challenged as also the physically handicapped.

23. The entire process of resumption of nine acres of land appears to have been initiated after a report had been submitted by the Tahsildar, Kadapa dated 20.11.2019, pursuant to the issuance of Government Order bearing number G.O.Ms.No.57, dated 16.02.2015, which authorises the District Collectors to cancel the alienation and resume the land by following due procedure, in cases where the allottee had not utilized the land 'for the purpose for which it is allotted or had changed the purpose'. In the present case, the purpose had certainly not changed. On the other hand, the institute was set up and continues to operate as can be seen from the documents placed on record, which shows not only that the students were undergoing the courses but were also taking the examination from the said institute.

24. For the reasons mentioned above, we cannot persuade ourselves to accept the view expressed by the learned single Judge and therefore, the resumption order dated 16.02.2020, is accordingly quashed and the

judgment and order impugned dated 15.09.2023, is set aside. Accordingly, the present writ appeal is allowed. No costs.

Pending miscellaneous applications, if any, shall stand closed.

DHIRAJ SINGH THAKUR, CJ.

R. RAGHUNANDAN RAO, J.

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