

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION Nos.33300 OF 2014

And 4955 OF 2015

COMMON ORDER :

W.P.No.33300 OF 2014:

This writ petition is filed for a *Writ of Mandamus* declaring the action of the respondents 2 and 3 in not considering the petitioner's representation dated 17.09.2014 for removal of unauthorized erected shops in front of Nizamabad Bus Station, Nizamabad, as illegal and arbitrary and for a consequential direction to the respondents 2 and 3 to take immediate action for removal of the same.

W.P.No.4955 OF 2015:

This writ petition is filed for a *Writ of Mandamus* declaring the action of the respondents 3 and 4 in not considering the representation of the petitioners dated 21.02.2015, as illegal and arbitrary and for a consequential direction to the respondents not to remove the existing shops of the petitioners from the front side of the Nizamabad Bus Station.

The brief facts in W.P.No.33300 OF 2014 are as follows:

The case of the petitioners is that they were declared as successful tenderers in pursuant to the notification issued by the then APSRTC, Nizamabad Region and they were allotted shops by the office of the 4th respondent by entering into an agreement. Later, they have also obtained permission from the Municipality and are doing the fruit business in the said premises. While so, some of the unauthorised persons illegally installed private stalls by encroaching the road in front of the bus station. In this regard, petitioners along with other shop owners have made a representation dated 17.09.2014 to 2nd respondent. But the 2nd respondent has not taken any action till date. Aggrieved by the same, the present writ petition is filed.

The case of the unofficial respondents who are the writ petitioners in W.P.No.4955 of 2015 is that they are the stationary hawkers and petty fruit vendors. They are the members of the New Bus Stand Hawker Association, Nizamabad and they were issued the identity cards. It is also submitted that their shops are situated outside the Bus Station abutting the compound wall and are carrying on the said vending activity on the Municipal drain area without causing any hindrance or obstruction to the traffic. While so, the present writ petition is filed by the petitioners for removal of the shops installed by the unofficial respondents.

Counter is filed on behalf of the 2nd respondent wherein it is stated that some of the persons installed private stalls in front of the stalls of the petitioners and when the same was brought to the notice of the 2nd respondent by way of notice dated 17.09.2014, the 2nd respondent instructed the unauthorised persons to remove the stalls. But the said persons gave oral consent to the 2nd respondent that they themselves would remove the private stalls after completion of the Ramzan season. It is further stated that the proposed respondents 5 to 25 have not taken any permission from the Municipal authority and that they are not the street vendors since their names were not registered as per the procedure and also were not issued any identity card with vendor code number and category of vendor.

Learned counsel for the petitioners while reiterating the contentions in the affidavit stating that though the petitioners filed representation to the Municipal authorities for removal of the encroachments which is causing inconvenience not only to the petitioners but also to others, submitted that petitioners were unable to run their business, though they are licensees of the 4th respondent and have paid the substantial amounts.

On the other hand, learned counsel for unofficial respondents submits that they are the street vendors and as such, they are entitled

to be protected under The Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 (*for short 'the Act'*) and that they have made application to include their names as street vendors. He also submits that as per Section 3(3) of the Act, no street vendor shall be evicted or relocated till the survey specified under sub-section (1) has been completed and the certificate of vending is issued to all the street vendors.

In the instant case, the counter filed by the Municipal Corporation shows that the unofficial respondents have erected the shops during the Ramzan season in front of the bus Station and they have requested the 2nd respondent for doing fruit business. Thereafter, the 2nd respondent along with staff visited the place and noticed the illegal installation of the shops without permission which is causing lot of inconvenience and traffic jam in the said area and directed them to remove the same. But the said persons requested and assured the 2nd respondent that they will remove the stalls after Ramzan period whereas the counter filed by the respondents 5 to 25 reiterates the averments in the affidavit in W.P.No.4955 of 2014, wherein it is stated that the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 has to be followed.

Since the applications filed by the petitioners in both the writ petitions are pending before the authorities, it is for the concerned authorities to take a decision on considering the factual aspects found on the ground position.

Accordingly, both the writ petitions are disposed of directing the concerned authorities to dispose of the application filed by the writ petitioners in accordance with law and take a decision.

A.RAJASHEKER REDDY, J

11.03.2015
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