

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.16983 of 2015

Dated : 15.06.2015

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Between:

M/s. Future Retail a company incorporated under the
Indian Companies Act, 1956 having its registered
Office at Knowledge House, Shyam Nagar, Jogeshwari E,
Mumbai, having its Branches at different outlets in Hyderabad
Rep., by its Store Manager & Authorised Signatory
Mr. Uma Mahesh C.H. S/o.Late C.H.Shaankaraiah,
Aged about 40 yrs.

.. Petitioner

And

Greater Hyderabad Municipal Corporation,
Lower Tank Bund Road, Hyderabad,
Rep., by its Commissioner. & another

.. Respondents

This Court made the following :

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ORDER :

The petitioner is doing business in the sale of house hold articles as well as electronics and other allied items with the brand name of 'Big Bazaar' having outlets at various places in the city of Hyderabad, in addition to the outlets spread all over India. The petitioner avers that in terms of the provisions under Section 421 of the Hyderabad Municipal Corporation Act (for short 'the Act'), every person carrying on business requires a written permission from the Commissioner to erect, exhibit, fix or retain any advertisement upon any land, building, wall, hoarding or structure.

However, no such permission is required if it is not an illuminated advertisement nor a sky sign which is exhibited within the window of a building, relates to trade or business upon which such advertisement is exhibited. The advertisement boards put up by the petitioner is on the same building, in which the business is carried out and such boards are exempted from licensing requirement under the proviso to Section 421 of the Act. Since there was no requirement to take written permission, the petitioner did not apply for permission and has put up a board. However, the authorities of the respondent-Corporation, contrary to the statutory mandate, demanding payment of advertisement fee compelling the petitioner to invoke the jurisdiction of this Court.

2. Learned Counsel for the petitioner submits that the principle of law is well settled, as held by this Court in judgment rendered on 31.12.2009 in W.P.No.23354 of 2009 and batch. It is held that unless the statutory provisions as incorporated in Section 421 of the Act is attracted, no advertisement fee can be levied. Following the said decision, recently this Court also disposed of W.P.No.4595 of 2014. Learned counsel therefore, submits that inspite of settled principle of law and when the mandate of statute is very clear, it is illegal on the part of the authorities to demand the petitioner that he has to pay the advertisement fee.

3. As seen from the averments in the affidavit filed in support of the writ petition and the material papers enclosed, as on today, no such demand was made. The petitioner only apprehends of such a demand. No details of the competent person making such a demand was shown by way of any document. Thus, what is contended by the petitioner and the relief sought is only an apprehension and is pre-emptive action than enforcement of right vested in the petitioner. Thus, the writ in the present form at this stage is not maintainable. The petitioner can avail the writ remedy, if he has no other alternative remedy, when the respondent-authorities cause demand to the petitioner advertisement boards contrary to the statutory provision in Section 421 of the Act, and contrary to the law laid down by this Court in the judgment dated 31.12.2009.

4. With the above observations, the Writ Petition is dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand dismissed.

P.NAVEEN RAO,J

15th June, 2015

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