

THE HON'BLE SRI JUSTICE R.KANTHA RAO

WRIT PETITION NOS.34135 OF 2014 AND 2059 OF 2015

COMMON ORDER:

Heard the learned counsel appearing for the petitioners in both the Writ Petitions and Sri B.Mayur Reddy, learned Standing Counsel appearing for the respondent-Corporation.

The petitioners in both the Writ Petitions are licensees under the respondent-Corporation. Initially, on 09.09.2010, stall No.6 was allotted to the petitioner in W.P.No.34135 of 2014 under a deed of license to sell certain items in the premises of the RTC bus station, Bhainsa, Adilabad District. His license is valid up to 08.09.2015. He was authorized to sell certain items specified under the deed of license. He has been transacting business in the premises of bus station, Bhainsa, Adilabad District, since the date of granting license to him. While so, the Corporation issued a notice dated 01.10.2014 to the petitioner stating therein that he was selling certain items in stall No.6, which he was not authorized to sell under the license and to stop selling those items. Apprehending some action from the respondent-Corporation, the petitioner filed W.P.No.34135 of 2014 to declare the notice dated 01.10.2014 as illegal and contrary to the deed of license and also for a direction to the respondent-Corporation to withdraw the impugned notice.

The respondent-Corporation also allotted stall No.3 to the petitioner in W.P.No.2059 of 2015 authorizing to sell certain items. His license was valid from 15.09.2014 to 14.09.2019. The grievance of the petitioner in W.P.No.2059 of 2015 is that the petitioner in W.P.No.34135 of 2014 has been selling the items, which he is not authorized to sell under the deed of license and on account of that, he has been incurring huge losses. Therefore, he filed W.P.No.2059 of 2015 to waive total monthly license fee from September 2014 till the matter is settled in W.P.No.34135 of 2014; to restrain the respondent-Corporation not to insist to pay the interest during the abovementioned period; to direct the respondent-Corporation to extend the license period proportionately after expiry of license in the year 2019 also to make up the losses he sustained; and further to award exemplary costs.

In W.P.No.2059 of 2015, the main contention of the petitioner is that as no action was taken against the petitioner in W.P.No.34135 of 2014, he incurred huge

losses and therefore, he sought to waive total monthly license fee from September 2014 till the matter is settled in W.P.No.34135 of 2014.

The respondent-Corporation specifically mentioned in the counter affidavit that the petitioner in W.P.No.34135 of 2014 has been selling certain items, which he is not authorized to sell under the license. However, learned Standing Counsel for the respondent-Corporation submits that for that reason only the Corporation has issued notice to the petitioner in W.P.No.34135 of 2014 proposing action provided for under the deed of license. He further submits that it is not under an obligation to waive the monthly license fee as prayed for by the petitioner in W.P.No.2059 of 2015.

Having heard the learned counsel appearing for the petitioners in both the Writ Petitions and the learned Standing Counsel for the respondent-Corporation, I am of the considered view that the issues raised in these Writ Petitions are in respect of contractual obligations. Before making any decision in these two Writ Petitions, it is required to look into the terms of deed of license, which is filed by the respondent-Corporation along with the counter affidavit. Clause 35 of the deed of license reads as under:

“In all disputes on the scope and doubts of interpretation of the clauses or conditions and application of this licence or otherwise, the decision of the Vice Chairman and Managing Director, APSRTC shall be final.”

In view of the aforementioned clause, which is part of the deed of license entered into by the parties, the petitioners in both the Writ Petitions ought to approach the Vice Chairman and Managing Director to resolve their respective disputes. In the strict sense, this Court is of the view that any adjudication relating to the issues requires the decision of the Vice Chairman and Managing Director and therefore, this Court in exercise of jurisdiction under Article 226 of the Constitution of India shall not indulge in resolving such issues by taking up the task of evaluating the evidence.

Under these circumstances, the petitioner in W.P.No.34135 of 2014 is directed to make a representation to the Vice Chairman and Managing Director of the respondent-Corporation seeking a decision as to whether the items allegedly

sold by him are within the items specified in the deed of license or whether they are any different items. Similarly, the petitioner in W.P.No.2059 of 2015 is directed to make a representation to the Vice Chairman and Managing Director in respect of the losses caused to him due to the alleged sale of unauthorized items by the petitioner in W.P.No.34135 of 2014 and can also make a request for waiving the license fee during the relevant period. On receipt of the aforementioned representations containing the contentions raised in both these Writ Petitions, the Vice Chairman and Managing Director of the respondent-Corporation is directed to render a decision on the issues raised by both the petitioners and take appropriate action, which is necessary in his opinion, within a period of four (4) weeks from the date of receipt of such representations. It is made clear that pending decision by the Vice Chairman and Managing Director of the respondent-Corporation, the interim suspension granted by this Court on 12.11.2014 in W.P.No.34135 of 2014 shall remain in force.

Both the Writ Petitions are, accordingly, disposed of. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

(R.KANTHA RAO, J)

30th March 2015

RRB