

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.38893 of 2015

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01.12.2015

Between:

Raichur Mohammed Salahuddin

.. Petitioner

and

Adoni Municipality and others

.. Respondents

Counsel for the petitioner: Mrs.P.Padmavathi

Counsel for respondent No.3: Assistant Government Pleader
for Municipal Administration and Urban Development (AP)

Counsel for respondent Nos.1 and 2: Mr.M.D.Saleem, standing counsel

The Court made the following:

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ORDER:

The petitioner, who is an existing licensee for more than twenty five years, filed this writ petition feeling aggrieved by the action of respondent Nos.1 and 2 in reserving certain shops in favour of schedule caste (ST) and schedule tribe (ST), physically handicapped (PH) and Dwakra group candidates.

As regards the reservation for SC and ST candidates, Articles 14 and 15 of the Constitution of India empower the State and its Instrumentalities to take affirmative action to uplift these communities by providing reservations. In order to reach this constitutional goal, the State has provided for reservations to the extent of 15% shops to SCs and 6% shops to STs under third and fifth provisos to Rule 12 of the Andhra Pradesh Municipalities (Regulation of Receipts and Expenditure) Rules, 1968, (for short 'the Rules'). Therefore, no exception can be taken in this regard.

As regards the reservation for physically handicapped persons, the Parliament has enacted the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, enumerating various measures to be taken by the appropriate Governments. If State or its Instrumentalities provide reservations to the persons with physical disabilities in the matter of employment or allotment of shops for conducting business etc., such a step is laudable. Therefore, the petitioner cannot raise any grievance in this regard.

However, as regards the reservation for Dwakra group, Mr.M.D.Saleem, standing counsel for respondent Nos.1 and 2, is unable to place before the Court any provision statutory or otherwise providing for such reservation. Therefore, this Court is of the opinion that the action of respondent Nos.1 and 2 in providing reservation for Dwakra group cannot be sustained.

At the hearing, Mrs.P.Padmavathi, learned counsel for the petitioner, submitted that the respondents are not justified in fixing upset price and that same is contrary to Rule 12-A of the Rules.

A perusal of the averments in the affidavit filed in support of the writ petition would show that this issue has not been raised at all. Therefore, this contention need not be considered. At any rate, I find no merit in this submission for Rule 12(2) of the Rules authorizes Municipalities to fix upset price for lease of immovable properties and Rule 12-A of the Rules has no relevance at all in this context. In view of the above noted facts, I do not find any merit in this writ petition.

The Writ Petition is accordingly dismissed.

As a sequel to dismissal of the writ petition, W.P.M.P.No.50104 of 2015 filed by the petitioner for interim relief shall stand dismissed as infructuous.

C.V.NAGARJUNA REDDY, J

01st December, 2015

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