

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

**FRIDAY THE SEVENTEENTH DAY OF APRIL
TWO THOUSAND AND FIFTEEN**

HONOURABLE SRI JUSTICE S.V. BHATT

WRIT PETITION NO. 11070 OF 2015

Between:

SVKB. Aditya Lakshma Rao ... Petitioner

V/s.

The Secunderabad Cantonment Board,
Court Compound, SP Road,
Secunderabad
Represented by its Chief Executive Officer
& Anr. ... Respondents

Counsel for the Petitioner : Sri V.V.N. Narayana Rao

Counsel for the Respondents : Sri Y.V.Ravi Prasad

Senior Counsel

The court made the following : [order follows]

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ORDER:

Heard Sri P. Sri Raghuram, learned Senior Counsel for petitioner and Sri Y.V. Ravi Prasad, learned Senior Counsel for respondents.

2. The issue arises under the Cantonments Act, 2006 [for brevity 'the Act']. The petitioner calls in question the notice dated 08/04/2015 purported to be issued under section 278 of the Act. Through the impugned notice, the respondents have sealed the premises of the petitioner for the alleged contravention of section 277 [1] (a) to (i)

of the Act.

3. The operative portion of the notice impugned reads as follows:

“Therefore, in exercise of powers conferred u/s. 278 of the Cantonments Act, 2006, in the interest of health and hygiene of the public in the cantonment, I hereby order the sealing of the premises and stopping the business forthwith until further orders and Shri Md.Afzal Mohiuddin, Health Superintendent is authorised to carry out the order into effect and submit a report immediately.”

4. Sri P. Sri Raghuram, learned Senior Counsel contends that the impugned notice suffers from patent illegalities and also effecting physical seizure or sealing the property in the present fact situation is beyond jurisdiction of the respondents. According to the learned Senior Counsel section 277 (1) (a) to (i) of Cantonments Act, 2006 on mere construction does not attract any of the circumstances present in the writ petition. Assuming without admitting the activity carried on by the petitioner requires a trade licence from the first respondent, section 277 (3) of the Act is a complete answer for section 277 (3) mandates issue of notice for obtaining a trade licence to keep the activity compliant with the requirement of Act. If the person is carrying on the activity without a trade licence, to bring such activity or such person in compliance with the requirements, three months notice is issued for compliance with the provisions of the Act and regularize the on going activity. The factual objection raised by the learned counsel is that though the petitioner is using the premises for commercial purpose for several years, no such notice is issued and the

extreme step of sealing the premises is illegal and unconstitutional.

5. Sri Y.V. Ravi Prasad, learned Senior Counsel submits that the jurisdiction of respondents to seal the premises is traceable to section 278 of the Act and no illegality can be found in sealing the premises. One of the reasons for effecting seizure of premises is that the activity undertaken by the petitioner is found to be causing health and hygiene problem to the public in the locality/in the cantonment area. The intention is not to prevent the enjoyment of the property but to prevent the objectionable activity. The learned counsel fairly submits that in the case on hand notice under section 277 (3) of the Act is not issued to the petitioner.

6. The issue can be sorted out by directing the respondents to treat the notice impugned in this writ petition as 'notice' for all comprehensive purposes under section 277 of the Act and receive application of petitioner for regularization. The petitioner is given two weeks time from today to make appropriate application/representation to the respondents in response to the notice dated 08/04/2015. On receipt of such application/representation, the respondents are at liberty to pass appropriate orders in accordance with law after conducting an enquiry as the situation warrants. Till a decision is taken and communicated to the petitioner, the impugned notice dated 08/04/2015 is suspended.

6. The writ petition is ordered as indicated above. No order as to costs.

7. As a sequel, Miscellaneous Petitions if any, pending in this writ

petition shall stand closed.

JUSTICE S.V. BHATT.

17/04/2015

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HONOURABLE SRI JUSTICE S.V. BHATT

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