

HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE

AND

HON'BLE SRI JUSTICE S.V. BHATT

WRIT PETITION No. 11398 OF 2004

13-11-2015

Between:

Idea Cellular Limited, 5-9-62, KLK Estates, Fateh Maidan Road, Hyderabad, rep., by
its Manager (Legal) G. Chakravarthi, S/o. G. Hanumantha Rao, aged 35 years, r/o.
Hyderabad

... Petitioner

And

Warangal Municipal Corporation, rep., by its Commissioner, Warangal, Warangal
District and others

... Respondents

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HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE

AND

HON'BLE SRI JUSTICE S.V. BHATT

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WRIT PETITION No. 11398 OF 2004

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ORDER: (per the Hon'ble the Acting Chief Justice Dilip B. Bhosale)

Heard learned counsel for the parties.

The petitioner, in the instant writ petition, has made the following prayer:

“For the reasons stated in the accompanying affidavit the petitioner prays that this Honourable Court may be pleased to issue a writ, order or direction, more particularly one in the nature of WRIT OF MANDAMUS declaring the action of the respondents in issuing the demand notice straight away without giving any opportunity to the petitioner and its agents and treating the name board/board frames displayed by the petitioner’s distributors and retail traders at their business places as advertisements, as illegal, arbitrary, ultra vires, in violation of principles of natural justice and in violation of Section 421 of the HMC Act and consequently direct the respondents not to resort to such an action of removing of name boards IDEA CHIT CHAT from the place of business of the retailers of the Petitioner Company and pass such other appropriate orders in the interest of justice.”

At the outset, Sri Ghanta Rama Rao, learned Senior Counsel for the petitioner submits that issuance of show cause notice is mandatory before issuing demand notice under Section 421 of the Hyderabad Municipal Corporation Act, 1955 (for short ‘the Act’). In support of this contention, he invited our attention to the judgment of this Court in ***Rama Devi Multi Specialty Dental Clinic v. GHMc, Hyd.*** This judgment states that issuance of show cause notice, in the circumstances as we have come across in the present case, is mandatory.

Having confronted with this, learned counsel for the respondent – Corporation could not and did not dispute this proposition of law.

In the circumstances, we pass the following order:

“The impugned demand notice dated 11-03-2004 issued under Section 421 of the Act is set aside, with liberty to the respondent – Corporation to issue show cause notice in terms of the judgment in ***Rama Devi Multi Specialty Dental Clinic’s*** case (supra). If the show cause notice is issued, it is open to the petitioner to file its reply within the time stipulated therein. The concerned authority may thereafter proceed to decide the show cause notice in accordance with law and then proceed further, if necessary. We hope that this exercise shall be completed within a period of four months from today.

Learned Standing Counsel for the respondent – Corporation is directed to

communicate this order to the concerned authority within a period of ten days from today.”

With these observations, the writ petition is disposed of.

Miscellaneous petitions, if any, also stand disposed of. No order as to costs.

DILIP B. BHOSALE, ACJ

S.V. BHATT, J

13-11-2015

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