HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

Writ Petition Nos.29424, 6344, 7629, 7663, 7770, 8049, 8905, 15793, 20749, 22491, 23338, 24802, 25705, 25999, 9721, 11500 and 30003 of 2011

COMMON ORDER:

Since the issue involved in all these writ petitions is similar and identical, they are being disposed of by this common order.

2. All these writ petitions are filed for a mandamus declaring the proceedings No.2807/AC(H&S)/GHMC/2010, dated 29-07-2010 issued by the 1st respondent demanding for payment of bulk garbage charges with Trade Licence as illegal, arbitrary and without authority of the provisions of the Greater Hyderabad Municipal Corporation Act, 1955 and for a consequential direction to the respondents not to demand bulk garbage charges from the petitioners.

3. The case of the petitioners in all the writ petitions is that all the petitioners are doing their respective businesses by obtaining licence as required under Section 521 of the Greater Hyderabad Municipal Corporation Act, 1955 and running their businesses. The respondent Corporation is collecting licence fee and property tax from them by enhancing the same from time to time under the guise of hike in service charges. It is stated that when the Hotels Association challenged the enhancement of licence fee, the Municipal Corporation has taken a plea that they have been rendering services to establishments by lifting large quantity of garbage generating from the Hotels and eating houses due to nature of business and the Supreme Court upheld the enhancement by accepting the contention of the Corporation that they are providing various services including lifting of large scale

garbage and that from 2008 onwards every year the respondents are enhancing the licence fee doubling the existing licence fee. It is further stated that all the petitioners have received impugned demand notices from the respondent Corporation demanding to pay bulk garbage charges and the respondents also shown arrears of bulk garbage charges from the year 2009 onwards. It is further stated that the Corporation has no power under the Greater Hyderabad Municipal Corporation Act or relevant bye laws to demand such amounts and the respondents have not stated anything in the impugned proceedings what is the basis for fixation of amount demanded in the notice and what is the procedure followed for fixing the amount for each establishments. Aggrieved by the said proceedings, the present writ petitions have been filed.

4. Though interim direction has been granted in the year 2011, no counter has been filed by the respondent-Corporation.

5. Heard Sri Velivela Srinivasa Rao, learned counsel for the petitioners and Sri P. Kesava Rao, learned standing counsel for the respondent-Corporation in all the writ petitions.

6. Learned counsel for the petitioners submits that the respondent Corporation issued demand notices for collection of bulk garbage charges without any authority of law. He further contends that the respondent Corporation has no power or authority to collect such garbage charges without any authority of law and that unless a provision is made in the Greater Hyderabad Municipal Corporation Act, 1955, the Corporation cannot collect such charges. He further contends that the subject matter of the present writ petitions is similar, identical and squarely covered by the decision of this Court in **Laxmi Lodge, Old Beet Bazar, Warangal and others v. Government of A.P., Municipal**

Administration Department and another[1]. He relied on the order dated 17-03-2011 in W.P.No.3916 of 2007 and the order dated 01-08-2014 in W.P.No.26565 of 2006 rendered by this Court.

7. On the other hand, Sri P. Kesava Rao, learned standing counsel for the respondent Corporation placed written instructions wherein it is stated that levy of garbage charges is justifiable under the provisions of Section 230 and Section 481 of the Greater Hyderabad Municipal Corporation Act, 1955 taking into consideration of increase volume of garbage and burden affected and also the viability of free of services rendered to meet the general public interest with respect to general hygienic, sanitation and perseverance of health and environment. However, the written instructions further stated that the bulk garbage charges are completely waived off.

8. Having regard to the facts and circumstances of the case and the contentions raised on either side, it appears that this court in **Laxmi Lodge, Old Beet Bazar, Warangal and others v. Government of A.P., Municipal Administration Department and another** (1 supra) held that when the power of levying and collecting any amounts towards administrative charges for lifting, transporting and dumping the waste in dumping yards is not vested, the notices issued by the Corporation raising a demand towards such administrative charges is illegal and without jurisdiction and the same is followed by this court in W.P.No.3916 of 2007 vide order dated 17-03-2011 and W.P.No.26565 of 2006 vide order dated 01-08-2014. Therefore, I am of the view that the facts in the present case and the facts in **Laxmi Lodge, Old Beet Bazar, Warangal and others v. Government of A.P., Municipal Administration Department and another** (1 supra) are almost

similar and identical. More so, the learned standing counsel for the respondent-Corporation has not disputed about the principles laid down in the said judgment and thus, the principle laid down in the said decision is applicable to the facts of the present case and the writ petitions deserve to be allowed.

Accordingly, all the writ petitions are allowed and the proceedings in Proc.No.2807/AC (H&S)/GHMC/2010, dated 29-07-2010 issued by the 1st respondent are set aside. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

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A. RAJASHEKER REDDY, J

Date: 22-06-2015

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[1] 2003 (1) ALT 30