

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.17877 of 2015

Dated : 19.06.2015

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Between:

Mohammad Ismail S/o.Late Sri Ghisa Bhai,
Aged about 58 yrs, Occu : Business,
R/o.H.No4-7-67/3,
Avan Ice Factory, Bhoktapur Locality,
Adilabad Town, Adilabad District

.. Petitioner

And

The Municipal Council, Adilabad town,
Municipality, rep., by its Commissioner,
Adilabad & 3 others

.. Respondents

This Court made the following :

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ORDER :

The petitioner is proprietor of Avon Ice Factory situated in Bhuktapur, Adilabad District. A complaint was received by the Municipal Council, alleging that running of Ice factory is causing health problems to the complainant and her family members. In response to the said complaint, a notice was issued on 22.04.2015 calling upon the petitioner to submit explanation on the said allegation. Apparently, the petitioner has not given any explanation, the Municipal Council passed orders on 09.06.2015, revoking the licence issued to the petitioner on 19.02.2015. Aggrieved thereby this writ petition is filed.

2. As seen from the averments in the affidavit filed in support of this writ petition, aggrieved by the notice dated 22.04.2015, the petitioner instituted O.S.No.42 of 2015 which is pending on the file of Junior Civil Judge, Adilabad. As stated by the learned counsel for the petitioner, an interlocutory application is also filed seeking injunction against the respondent-Municipality. No injunction order was granted as sought for by the petitioner and the said suit is pending consideration. Since the petitioner has not filed any explanation and finding merit in the complaint given by the complainant, the impugned order is passed revoking the licence granted to the petitioner.

3. Since on the same subject, petitioner has invoked the jurisdiction of Court of Junior Civil Judge at Adilabad and as O.S.No.42 of 2015 is pending, this writ petition against the final order passed in pursuant to the said notice dated 22.04.2015 is not maintainable. The extra-ordinary remedy under Article 226 of the Constitution of India is available only to such of those persons, who do not have an effective and efficacious alternative remedy. In the instant case, even according to the petitioner's own averments, he has availed alternative remedy and instituted O.S.No.42 of 2014. When the petitioner has availed alternative remedy by filing said suit, which is pending consideration by the competent Court on the same subject matter, this Writ Petition is not maintainable.

4. Accordingly, this writ petition is dismissed leaving it open to the petitioner to work out his remedies as available in law. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand dismissed.

P.NAVEEN RAO,J

19th June, 2015

Note : Issue C.C. in two (2) days

B/o.

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