

HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

Writ Petition No.8165 of 2015

Date: 26-03-2015

Between:

R. Vijay Kumar

.. Petitioner

AND

The State of Telangana, represented by its

Principal Secretary, Municipal Administration Department,

Hyderabad and 4 others

.. Respondents

HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

Writ Petition No.8165 of 2015

ORDER:

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This writ petition is filed for a mandamus declaring the action of the 3rd respondent in issuing the notice No.41/1/13/TPS/C-17/NZ/GHMC/2015, dated 18-03-2015 as illegal, arbitrary and violative of principles of natural justice.

2. The case of the petitioner is that himself and other partners purchased Sai Ram Theatre more than 25 years back and running the same without any complaint with valid licence and permissions and has been paying taxes regularly to all departments including the 2nd respondent. The 2nd respondent increased the tax abnormally in the year 2012 towards the property tax of the

theatre and challenging the said action, the petitioner preferred an appeal before the Chief Judge, City Small Causes Court, wherein the court has directed the petitioner to pay Rs.1,00,000/- every year and the petitioner is paying the same regularly. It is stated that the 3rd respondent along with his staff came to the theatre in the first week of March and directed the petitioner to pay the regular tax irrespective of court orders and then he represented that the matter is pending before the civil court and expressed his readiness and willingness to pay the tax according to the court order, but the 3rd respondent threatened that if he failed to pay the increased tax, the theatre will be demolished. It is also stated that during road widening programme, his theatre was affected for road widening and he has not claimed any compensation for the portion which was affected in road widening and that the authorities of the respondent promised that he will be compensated for the affected portion if any construction is made in future. It is further stated that the 3rd respondent issued a notice dated 18-03-2015 under Section 636 of the Greater Hyderabad Municipal Corporation Act, 1955 stating that he is running a bakery in premises No.13-1/41 illegally and as per the orders of this court in W.A.No.2130 of 2015 and the orders of Lok Ayukta dated 02-07-2010 and directed to remove bakery within 24 hours. Aggrieved by the same, the present writ petition is filed.

3. Heard the learned counsel for the petitioner and Smt. A. Deepthi, learned standing counsel for the respondent Corporation.

4. Learned counsel for the petitioner is that without issuing any notice preceding the impugned notice, the respondent authorities straight away issued the notice under Section 636 of the Act, which is in violation of principle of natural justice. He further submits that permission for running a bakery was obtained from HUDA in the year 1994, consequent upon which the construction was made in the year 1995 in accordance with the provisions of A.P. Cinemas (Regulation) Act, 1955 and the respondent authorities has not objected the same and granted permission from time to time.

5. On the other hand, learned standing counsel for the respondent authorities stated that even though permission was granted for a period of five years, no recital was mentioned regarding extension of permission and the petitioner could have made a representation for extension of permission, which he did not

do so. She further submits that pursuant to the orders in W.A.No.2130 of 2005 and the orders of Lok Ayukta, the present impugned notice has been filed.

6. In this case, admittedly, no notice was issued prior to the impugned notice issued under Section 636 of the Act and the initiation of action under Section 636 of the Act is only after issuance of notice under sub-section (1) of Section 452 of the Act, but the impugned notice does not reflect the said action. Anyhow, ends of justice would be met if the impugned notice can be treated as a show cause notice.

7. In view of the same, the impugned notice issued under Section 636 of the Act is treated as show cause notice and it is for the petitioner to make an explanation and also application for extension of licence to the respondent authority and on making such explanation/application, the respondent authorities may consider and pass appropriate orders thereon. Till such orders are passed, status quo obtaining as on today shall be maintained. However, the petitioner shall make an explanation/application within a period of three weeks from today, failing which, it is open for the respondent authorities to take appropriate action in accordance with law.

With the above direction, the writ petition is disposed of. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

A. RAJASHEKER REDDY, J

Date: 26-03-2015

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