

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.37240 of 2015

Date:17.11.2015

Between:

M/s SIS BRO and CO UPizza Corner
Coffee, Vidyanagar, Hyderabad, repled.,
by its Manager-Arjun

..... Petitioner

And:

The State of Telangana., repled., by its
Principal Secretary, Municipal Administration
Department, Hyderabad and another.

.....Respondents

Counsel for the Petitioner: Mr. T.V.Rajeevan

Counsel for Respondent No.1: AGP for Municipal Administration (TS)

Counsel for Respondent No.2: Mr. P.Kesava Rao,
Standing Counsel for GHMC

The Court made the following:

ORDER:

This Writ Petition is filed for a *Mandamus* to set aside closure notice, vide No.424/HS/HS/GHMC/2015, dated XX.10.2015, issued by respondent No.2.

The petitioner is the proprietary concern represented by its Manager. It is pleaded on behalf of the petitioner that an eatery is being run in premises bearing No.2-1-699/B-7/1, Vignanpuri Colony, Vidyanagar, Hyderabad under a trade license for a long time and that suddenly, show cause notice, dated 09.10.2015, was issued alleging that the petitioner is not having a valid trade license as required under Section-521 of the Greater Hyderabad Municipal Corporation Act, 1955 (for short 'the Act') and repeated complaints have been filed before the Human Rights Commission for taking action against it. The petitioner claimed that an explanation was submitted in reply to the said show cause notice; and that however, by the impugned closure notice, respondent No.2 has directed it to close down the trade.

At the hearing, Mr. T.V.Rajeevan, learned counsel for the petitioner, fairly conceded that the explanation was offered by the petitioner after the impugned closure notice was issued and that the inconsistent plea raised by the petitioner in this regard in the affidavit may be ignored.

A perusal of the show cause notice shows that the following two allegations are made:

- "1. Not having a valid trade license as required under Section-521 of HMC Act, 1955.
2. Repeated Complaints filed under Human Rights Commission against the trade M/s US Pizza Corner running with illegal connections to take the necessary action against above said trade."

However, the main ground on which the impugned closure notice was issued was that the entire kitchen was in very unhygienic condition and that therefore, the petitioner is violating the provisions of the GHMC Bye-laws for Regulation of Eating Houses

(or) Hotels, 1973.

Mr. P.Kesava Rao, learned Standing Counsel for the Greater Hyderabad Municipal Corporation, has fairly conceded that while ground No.2 in the show cause notice is indecipherable, the allegation that the petitioner was running the eatery in very unhygienic conditions was not mentioned in the show cause notice.

Though the petitioner has not filed its explanation to the show cause notice, considering the fact that respondent No.2 has failed to put the petitioner on notice regarding the allegation of unhygienic conditions, there is no justification for respondent No.2 to direct closure of the petitioner's eatery without giving it an opportunity of explaining the said allegation.

In the light of the above discussion, the impugned closure notice is set aside. Respondent No.2 shall issue a fresh show cause notice to the petitioner with proper allegations. On considering the explanation that may be submitted by the petitioner, respondent No.2 shall pass a fresh order containing proper reasons.

The Writ Petition is, accordingly, allowed.

As a sequel to disposal of the Writ Petition, W.P.M.P.No.47942 of 2015 shall stand disposed of as infructuous.

JUSTICE C.V.NAGARJUNA REDDY

17th November, 2015

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