

**THE HON'BLE SRI JUSTICE C.V.NAGARJUNA  
REDDY**

**WRIT PETITION No.1630 of 2016**

-  
**21.01.2016**

Between:

Tirukala Purushotham

.. Petitioner

and

The State of Andhra Pradesh,  
represented by its Principal Secretary,  
Municipal Administration and Urban Development Department,  
Hyderabad and another

.. Respondents

Counsel for the petitioner: Mr.T.Janardhan Rao

Counsel for respondent No.1: Government Pleader  
for Municipal Administration and Urban Development (AP)

Counsel for respondent No.2: --

**The Court made the following:**

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**ORDER:**

This writ petition is filed for a *mandamus* to declare the action of respondent No.2 in seeking to remove the shop being run by the petitioner on the road margin of Srikalahasti town, as illegal and arbitrary.

The petitioner averred that on the license granted by respondent No.2, the petitioner's father erected a small structure and been running a shop selling cool drinks, tea etc., That on 05.08.2011, the Commissioner of respondent No.2 has issued No Objection Certificate (NOC) for sanction of electricity meter to the said shop and that the petitioner has been paying license fee to respondent No.2 for running the shop. The petitioner alleged that suddenly the Commissioner of respondent No.2 has undertaken the drive of removing the shops on the road margin and that without following the procedure prescribed under the Andhra Pradesh Municipalities Act, 1965 (for short 'the Act'), he has been highhandedly causing removal of the shops.

Mr.Md.Saleem, learned standing counsel for the Municipalities (AP), while admitting that license was granted to the petitioner's father for running the shop and that license fee is being collected by respondent No.2, however, has submitted that the petitioner's shop has been erected resting on the wall of a school and that the petitioner has been selling items such as cool drinks, gutka etc., causing inconvenience to the students of the school. He has further submitted that on the eve of commencement of Brahmasthanams from 2<sup>nd</sup> March, 2016, respondent No.2 has undertaken a special drive to clear the encroachments on the streets and that as a part of the same, the petitioner has been asked to remove his shop.

Under Section 192 of the Act, the Commissioner is vested with

the power to remove the encroachments on the public streets. This Court, by common order, dated 16.11.2015, in WP.No.37161 of 2015 and batch, held that even though the provisions of Section 192 of the Act, do not expressly envisage a prior notice, the principles of natural justice warrant that such requirement shall be read into the said statutory provision. From the undisputed pleadings of the petitioner, it is evident that license was granted for establishment of shop and that respondent No.2 has been collecting license fee. If for any reason, respondent No.2 feels that the petitioner's shop cannot be allowed to be run, it shall issue a show cause notice and after considering the objections by the petitioner, it has to pass an appropriate order before taking steps for removal of the shop in question.

In the above view of the matter, respondent No.2 is restrained from interfering with the running of the shop by the petitioner. The said respondent is, however, left free to follow the procedure indicated hereinabove, if it feels the shop in question needs to be removed.

Subject to the above directions, the Writ Petition is disposed of.

As a sequel to disposal the writ petition, W.P.M.P.No.2053 of 2016 filed by the petitioner for interim relief shall stand disposed of as infructuous.

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**C.V.NAGARJUNA REDDY, J**

**21<sup>st</sup> January, 2016**

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