

THE HON'BLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No.34238 of 2012

ORDER:

This Writ Petition, filed under Article 226 of the Constitution of India, challenges the proceedings of the Commissioner, Nagara Panchayat, Narsampet, Warangal District.

Heard, Sri Parsa Ananth Nageshwar Rao, learned counsel for the petitioner, Sri N. Praveen Kumar, learned Standing Counsel for respondent No.1 and learned Government Pleader for Home for respondent No.2.

A notice, dated 19-07-2012 was issued by the Commissioner, Nagara Panchayat, Narsampet, Warangal District, directing the petitioner herein to carry on the fruit business only on Sundays.

This Court, while ordering notices on 02-11-2012 in WPMP No.43438 of 2012 passed the following interim order:

"Heard Sri Parsa Ananth Nageswar Rao, learned counsel for the petitioner and Smt.K. Swapna, learned counsel representing the learned Standing Counsel for the 1st respondent.

The petitioner is carrying on his business under a trade licence issued by the 1st respondent and without any notice or opportunity to him, the impugned order,

dated 19-07-2012 appears to have been issued on the representations of others. As ex facie principles of natural justice do not appear to have been complied with, interim suspension of the impugned proceedings dated 19-07-2012 until further orders.”

Responding to the notice issued by this Court, a counter-affidavit deposited by the Commissioner of 1st respondent Nagar Panchayat is filed and paragraph No.9 of the said counter-affidavit reads as follows:

“9. It is submitted the petitioner is doing his business and selling fruits every day since filing writ petition before the Hon’ble High Court. No restrictions are imposed on the writ petitioners to sell the fruits only on Sundays. The writ petitioner is allowed to carry the business throughout week. It is submitted that there is no ill-motive and ill-intention to the respondent. Enquiry revealed that the writ petitioner used to sell fruits on Sundays only, and as number of petty fruit vendors’ livelihood was deprived, the petitioner was directed to do business as he used to carry the business only on Sundays. It is submitted that the petitioner is at liberty to sell the fruits everyday and the respondent is abiding the orders of the Hon’ble Court. The petitioner is selling the fruits daily without any interference.

For the reasons stated above it is prayed that this Hon’ble Court may be pleased to dismiss the W.P.No.34238/2012 and pass such other further order or orders as the Hon’ble Court may deem fit and proper in the circumstances of the case.”

It is submitted by learned counsel for the petitioner so also learned Standing Counsel for 1st respondent that in the month of March, 2016 the 1st respondent Nagar Panchayat renewed the trade licence of the petitioner for a further period of one year.

The sum and substance of the case of the petitioner is that at the instance of respondents 3 to 10 the 1st respondent – Commissioner issued the impugned notice.

According to the learned counsel for the petitioner, the said notice is irrational and illegal and when the petitioner has a valid licence to carry on the business, the 1st respondent cannot restrict the business of the petitioner only for Sunday.

There is absolutely no dispute that the trade licence granted for the petitioner is still existence. Therefore, in the considered opinion of this Court the said restriction, which is not authorized by any law, cannot be sustained and it is violative of Article 14 of the Constitution of India.

For the aforesaid reasons, the writ petition is allowed, setting aside the impugned notice, 19-07-2012 and consequential proceedings ROC.No.E1/2045/2012, dated 31-08-2012 issued by the 1st respondent – the Commissioner,

Nagar Panchayat, Narsampet, Warangal District. There shall be no order as to costs.

The Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

A.V. SESA SAI, J

November 07, 2016

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