

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No. 9172 of 2012

ORDER:

Petitioners are fish vendors in Jagtial Town of Karimnagar District. They are selling fish in vegetable market situated near Clock Tower, Jagtial, for the last more than 20 years. They belong to fisherman community and eking out their livelihood by selling the fish. Though a site was selected near Sri Rama Talkies for the purpose of establishing a Rythu Bazar in order to facilitate the ryots and petty vendors for selling their produce, in the absence of any habitation in the surrounding area, there was not much demand, as a result of which, Rythu Bazar was closed five years back. Though the Municipality allowed the meat vendors in the vegetable market, when the petitioners were not allowed to sell the fish, they filed the present writ petition.

A counter-affidavit is filed by the Commissioner, Jagtial Municipality, stating that the alleged vegetable market is exclusively earmarked for selling vegetables and the sale of chicken and fish therein was prohibited and a separate market was provided near fire station for them. The petitioners have been selling fish in the fish market located near new bus stand, but not in the premises of vegetable market as alleged by them. When Jagtial Municipal Council issued a proclamation on 30.12.2011 informing the vendors of mutton, chicken and fish for closure of their business on the notified days, the petitioners entered the vegetable market

unauthorisedly on 24.03.2012 and started vending the fish. In those circumstances only, the activity of the petitioners was objected since they were selling fish on the prohibited days. There are separate markets for vegetables and mutton, fish etc.

A reply affidavit was filed on behalf of the petitioners stating that the municipal authorities allowed the vendors of mutton and chicken in vegetable market contrary to the averments made in the counter-affidavit. As there was no separate mutton market in the Town, the municipal authorities were allowing the chicken and fish vendors for conducting their business in the vegetable market for the last 20 years. However, it was admitted that a separate fish market near fire station for fish vendors was allotted to new fish vendors, but, the petitioners, who were old fish vendors, were allowed to continue their business in the vegetable market. No shops were allotted to the petitioners and if shops were allotted, they would have conducted their business in the fish market only. The sale of fish on the notified prohibited days was also denied. They have also given the details of the persons who were selling mutton, chicken and dry fish in the vegetable market area.

The short issue in the present writ petition is with regard to grant of permission to the petitioners to sell their fish in vegetable market. It is the case of the respondents that a separate market is available for selling the fish and in fact, the same is not denied by the petitioners. But, what the petitioners state is that in respect of new fish vendors, shops were allotted, whereas in respect of old fish

vendors, they were allowed to continue their business in the vegetable market area.

It appears that the petitioners want to continue to sell the fish in vegetable market area contrary to the policy decision of the Municipal Council. It is also their case that contrary to the averments in the counter-affidavit, the authorities of the Municipality were allowing the mutton, chicken and dry fish vendors in vegetable market. If the Municipal Council takes a policy decision to earmark vegetable market for selling vegetables exclusively, they have to apply that principle uniformly and should not allow others to sell their produce in the vegetable market. There cannot be any discrimination in the sale of produce by the persons other than vegetable vendors. Since a separate market is available for fish vendors, the plea of the petitioners to continue the sale of fish in vegetable market cannot be entertained.

In the circumstances, the writ petition is disposed of directing respondent No.3-Municipal Council, Jagtial, to apply the principle of specialized sale of products in the respective markets uniformly to the persons without showing any discrimination.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

A.RAMALINGESWARA RAO,J

Dt:25.10.2016

kdl

