

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.43108 OF 2016

ORDER:

This writ petition under Article 226 of Constitution of India is filed seeking a writ of mandamus to set aside notice dated 06.12.2016 issued by the 2nd respondent by declaring the same as illegal and arbitrary, and against the provisions of the Cantonment Act, 2006.

The main contention raised by the learned counsel for the petitioner is that the impugned notice issued by the respondent invoking the provision under Section 278 of Cantonment Act, 2006 (for short 'the Act') in view of non-obtaining the licenses under Section 277 of the Act, is not applicable to the shops/premises of the petitioner, which do not come within the purview of Section 277 of the Act.

The learned standing counsel appearing on behalf of the 2nd respondent submitted that as per the provisions of the Act, in respect of every trade or establishment within the jurisdiction of the 2nd respondent, license should be obtained from the 2nd respondent, and that though the show-cause notices were issued, the petitioners have not replied to the same and that the contention of the petitioners that their shops/premises were sealed without prior intimation or without serving any notice to them, is not correct.

This Court heard the arguments and perused the material available on record.

Without expressing any opinion regarding the applicability of provisions of Section 277 and 288 of the Act, considering the stand taken by the petitioner that no show-cause notice is issued to him, this Court is

of the view that the petitioner can be given one more chance of being heard.

Hence, the impugned order is set aside and the petitioner is directed to prefer an application for trade license or make a representation to the 2nd respondent or to give a reply to the show-cause notice, if already served to him, on or before 10.01.2017. On such application/representation or explanation filed by the petitioners, the 2nd respondent is directed to take appropriate action and pass orders in accordance with law on or before 30.01.2017. Till such time, the petitioner shall be permitted to run his business/ establishment.

Accordingly, the writ petition is disposed of. No costs. Pending Miscellaneous Petitions, if any, shall stand closed.

December 23, 2016.
KTL

RAJA ELANGO, J



