

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.42798 of 2016

ORDER:

This writ petition under Article 226 of Constitution of India is filed seeking a writ of mandamus declaring the action of the respondent contained in notice dated 06.12.2016 in closing and sealing the business premises of the petitioners for want of trade licenses under Section 277 of the Cantonment Act, 2006 as arbitrary and illegal and consequently, invalidate the said notice and direct the respondent not to interfere with the business activities of the petitioners.

The main contention raised by the learned counsel for the petitioners is that the impugned order 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 petitioners which do not come within the purview of Section 277 of the Act.

The learned standing counsel appearing on behalf of the respondent submitted that as per the provisions of the Act, in respect of every trade or establishments within the jurisdiction of the respondent, the person should obtain license from the respondent. Even though show-cause notices are issued, the petitioners have not replied and the contention of the petitioners that their shops/premises are closed without prior intimation or without serving any notice to the petitioners 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 petitioners that no show-cause notice is issued to them, this Court is of the view that the petitioners can be given one more chance of being heard.

Hence, the impugned order is set aside and the petitioners are directed to prefer an application for trade license or make a representation to the respondent or to give a reply to the show-cause notice, if already served to them, on or before 19.12.2016. On such application/representation or explanation filed by the petitioners, the respondent is directed to take appropriate action and pass orders in accordance with law on or before 20.01.2017. Till such time, the petitioners shall be permitted to run their respective businesses/establishments.

Accordingly, the writ petition is disposed of. No costs.

Pending Miscellaneous Petitions, if any, shall stand closed.

RAJA ELANGO,J

08.12.2016.
Tsr

