

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No. 25783 of 2010

Date : 3.8.2016

Between :

Mohd Khizer S/o Mohammed Khaleel
R/o 18-7-425/46, Bhavaninagar Lane
Talabkatta, Hyderabad

Petitioner

And

The Commissioner of Police,
Basheerbagh, Hyderabad and others

Respondents

The Court made the following:

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No. 25783 of 2010

ORAL ORDER:

This writ petition is filed praying to grant the following relief:

.....issue a Writ of Certiorari or any other appropriate Writ, order or direction and: **a)** By declaring the action of the Respondent No.1 and 2 in not taking action against the culprits for burning the petitioner's mosque but in referring the matter to the Respondent No.3 under Section 133 of Cr.P.C. as illegal and unconstitutional. **b)** To direct the Respondents No.1 and 2 to forthwith take stringent action against all the culprits as per law for burning down the mosque by name Masjid-e-Khaleelullah at 17-3-193/35 admeasuring 106 sq. yards at Madina Nagar, Talabkatta, Hyderabad as per Petitioner's complaint

dt. 3-10-2010 to the Respondent No.1 and 2 and consequently to quash the notice dt. 4-10-2010 of the Respondent No.3 by declaring it as illegal and unconstitutional and without jurisdiction. c) And to pass

2. As noticed from above, the prayer sought in para "a" is not taking action against the culprits for burning the mosque but referring the matter to third respondent under Section 133 of Criminal Procedure Code and in para "b", in the first limb direction was sought to respondents 1 and 2 to forthwith take stringent action against all the culprits as per law for burning down the said mosque.

3. Learned Government Pleader submits that based on the complaint given by the petitioner Crime No. 194 of 2010 on the file of Rain Bazar Police Station was registered on 3.10.2010. The crime was investigated and final report was filed on 13.1.2016 in the Court of VII Additional Metropolitan Magistrate, Nampally. Government Pleader submits that police investigated and reported that crime is undetected and requested the learned Magistrate to close the case. Government Pleader produced copy of the final report and also stated, on instructions, that the crime was closed based on the final report.

4. In the second limb of the prayer sought in para "b", petitioner challenges the notice dated 4.10.2010 issued by the Special Executive Magistrate, Hyderabad in M C No. B/490/2010 dated 4.10.2010.

5. Having noticed that rivalry between two muslim groups belonging to different sects and having apprehending serious threat to peace and tranquility in the locality, Police requested the Special Judicial Magistrate to summon both parties and to pass appropriate orders under Section 133 of Cr.P.C. to restrain them from indulging in violence. As a consequence, notice impugned was issued.

6. Having realized that it is only a notice and that earlier request of the police asking the Special Executive Magistrate to exercise powers under Section 133 Cr.P.C., were not challenged, learned counsel for petitioner fairly submits that since the issue is pending from the year 2010, a direction be issued to the Special Executive Magistrate to decide the issue before him as expeditiously as possible. Learned Government Pleader and learned counsel for impleaded respondents 4 to 14 have no objection for early resolution of the dispute. None appeared for impleaded respondents 15 to 19.

7. Having regard to the said submission, writ petition is disposed of directing the Special Executive Magistrate/third respondent, to conclude the proceedings initiated by him, as expeditiously as possible, preferably within a period of four weeks from the date of receipt of copy of this order, if already

not concluded. It is needless to observe that it is open to the petitioner to contest closing the complaint. No costs. Having regard to the same, miscellaneous petitions, if any pending, are closed.

P NAVEEN RAO,J

DATE:3.8.2016
TVK

HONOURABLE SRI JUSTICE P. NAVEEN RAO

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