

HON'BLE SRI JUSTICE S.V.BHATT

W.P.No.25103 OF 2013

ORDER:

Heard counsel for petitioner and Assistant Government Pleader for Home for respondents 1 to 3.

The petitioner prays for the following relief:

“.... to issue appropriate writ, order or direction one more in the nature of “Writ of Mandamus” declaring the action of the respondents in harassing and interfering with the petitioner’s business at premises No.3-6-290/16, Sadana Building, Hyderabad in serving of flavoured Hookahs without proper authority of rule, law or regulations as illegal, arbitrary, unconstitutional and consequently direct the respondents to permit the petitioner to continue his business of serving flavoured tobacco in Hookahs in his coffee shop to the customers without any hindrance or restrictions except under law and pass such.....”

It is not in dispute that this writ petition is similar to batch of writ petitions filed in this Court. On 27.01.2017, through common order in W.P.No.3202 of 2014 and batch, the learned Single Judge dismissed the writ petitions with the following observations:-

17. In the light of this provision and Section 149 Cr.P.C., the contention of the learned Counsel for the petitioners that the acts of the Police amount to infringement of fundamental rights and that the police are not the competent authority, but it is only the G.H.M.C that is competent to interfere with the business of the petitioners, who are serving Hookahs, does not have any force. Therefore, this Court is of the view that under Section 12 of the Act and Section 149 Cr.P.C., the police including the other authorities as authorized by both Central and State Governments have ample powers to inspect the business premises of the petitioners. In this regard, the learned Counsel for the petitioners has failed to place any such authority, under which, the G.H.M.C is only

competent to inspect the business of the petitioners in serving Hookah.

18. In view of the foregoing discussion, this Court is of the view that the action of the respondents-police is in accordance with law and any interference by this Court with the powers of the police in this regard by exercising the powers under Section 226 of the Constitution of India, is not warranted.

19. Further, the Director General of Police, Telangana State, is directed to take appropriate action against the officers for their inaction in respect of the restaurants being used as hookah centres and also to take action against the high-handed acts of the officers, who interfered with the restaurants, which are being run without there being any violations.

Counsel for petitioner relies upon *NARINDER S. CHADHA AND OTHERS v. MUNICIPAL CORPORATION OF GREATER MUMBAI*¹ to contend that the issue involved in the instant writ petition is substantially covered by the decision of the Apex Court and, therefore, the writ petition is required to be allowed.

Learned counsel for respondents submits that the prayer in the instant writ petition is substantially covered by common order dated 27.01.2017 in W.P.No.3202 of 2014 and batch and prays for dismissing the writ petition on the same terms and conditions. He further contends that the writ prayer is very general and if considered virtually prevents police personnel from verifying the activity carried on by petitioner in the name of flavoured hookahs and submits that the Court may not consider granting a blanket prayer, which prevents police from discharging their function and duty.

¹ (2014) 15 SCC 689

I have perused the common order dated 27.01.2017 in W.P.No.3202 of 2014 and batch and taken note of the ratio of the Apex Court in *NARENDER SCHADHA*'s case (supra). The facts in W.P.No.3202 of 2014 and batch are same and similar to the facts asserted in the instant writ petition. Further, as rightly pointed out by the respondents there cannot and ought not to be a blanket direction against the respondents, for such direction virtually prevents the police from even knowing or investigating what is actually happening in the name of flavoured hookahs carried on by traders. The decision of Hon'ble Supreme Court is distinguishable to the fact situation of this case, for a circular was challenged in the reported case and the legality of the circular was considered and decided. Whereas in the case on hand the prayer and the cause of action are on alleged interference by police against flavoured hookahs serving and no written order or proceeding is placed on record to examine the legality of such order or proceeding. Therefore, having regard to the view taken in the common order dated 27.01.2017 in W.P.No.3202 of 2014 and batch, I am satisfied that the instant writ petition can be dismissed by adopting the same reasons.

The writ petition is, accordingly, dismissed in terms of W.P.No.3202 of 2014 and batch. There shall be no order as to costs.

Miscellaneous petitions, if any, pending, shall stand closed.

S.V.BHATT,J

17th April 2017
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