

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

WRIT PETITION No.917 of 2012

ORDER:

The instant Writ Petition is filed by the petitioner seeking a writ of Mandamus declaring the proceedings in Memo RC No. P3/1639/2011 dated 29.12.2011 issued by the 2nd respondent and also consequential order dated 31.12.2011 issued by the third respondent directing the petitioner to close his chicken shop at Kandukur Village, Khammam District, as illegal and violative of Articles 14,19 and 21 of the Constitution.

2. Respondents 1 & 2 filed their counter opposing the Writ Petition.

3. When the matter came up for hearing today, learned counsel for petitioner would mainly argue that the respondents have straightaway issued the impugned notice and consequential order directing the petitioner to shift his chicken shop to another place by obtaining new permission from the gram panchayat within one day without following the due process of law i.e., without giving time to him to submit his explanation and therefore, he was put to much inconvenience and hardship.

4. Learned counsel for respondents would submit that the chicken shop being run by the petitioner causes lot of public nuisance and health hazards to the villagers and on the representation made by the villagers, the respondents have conducted enquiry and passed the impugned order and there is no illegality in it.

5. A perusal of the impugned memo Rc.No.P3/1639/2011 dated 29.12.2011 and consequential order dated 31.12.2011 would show that the authorities have directed the petitioner to shift his shop to another place by obtaining new permission from the gram panchayat within 24 hours. It appears, no show cause notice was issued to the petitioner calling for his explanation, if any.

6. In that view of the matter, the impugned notice dated 29.12.2011 and the consequential order dated 31.12.2011 are not sustainable in the eye of law. Therefore, the respondents are directed to issue a fresh show cause notice to the petitioner within one week from the date of receipt of a copy of this order calling for his explanation. On that, the petitioner shall submit his explanation within one week from the date of receipt of the show cause notice. Thereupon, the respondent authorities shall pass appropriate orders as per law within 15 days thereafter.

7. The Writ Petition is disposed of accordingly. No costs. As a sequel there to, miscellaneous applications, pending if any, shall stand closed.

Date: 15.11.2017
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U.DURGA PRASAD RAO, J