

The Hon'ble Sri Justice M.Seetharama Murti

Writ Petition No.44137 of 2017

Dated 22.12.2017

Order:

This Writ Petition is filed seeking the following relief:

“to issue an appropriate writ, order or direction especially one in the nature of Writ of Mandamus declaring the action of the respondents in cancelling the Danger and Offensive Trade License No.TL./03712/2017, dated 19-09-2017, and thus preventing the petitioner from carrying on Trade in Chicken and Mutton in Shop Nos.1 and 2 of Door No.15.9-19, Market area, Tenali as arbitrary, illegal, contrary to Municipal law, unconstitutional, opposed to the principles of natural justice and actuated by malafide, discriminatory and set aside the same.”

(Reproduced verbatim)

Learned Counsel for the petitioner, at the hearing, would submit that the petitioner has been carrying on his business in terms of the Trade License issued to him, but, the impugned notice cancelling his license was issued to him on the ground that he has been carrying on his business outside the Market Complex. The learned Counsel would further submit that the impugned notice has referred to Gazette Notification No.39, dated 30.09.2017, pertaining to Tenali Municipal Council; and that there is no condition in the said Notification that the

petitioner shall not carry on his business outside the Municipal Market or Municipal Complex; and that, therefore, the Notification is bad in law.

The learned Standing Counsel for respondent Nos.2 and 3- Municipal authorities, on instructions, would submit that the Municipal Council and the Commissioner of Municipality are entitled to take action as per the terms of the said Notification and that Term 12 thereof clearly envisages that the Commissioner has the power to direct removal of the business being carried on outside the Municipal Complex. He would further submit that if the petitioner is aggrieved by the action being taken by the respondent- authorities, he has the remedy of an Appeal under Section 345 of the Andhra Pradesh Municipalities Act, 1965, and that therefore, the Writ Petition is not maintainable.

Learned Counsel appearing for the petitioner would submit that the petitioner would avail the remedy of Appeal and, till such time, his interests may be protected.

Recording these submissions, the Writ Petition is disposed of reserving liberty to the petitioner to prefer an Appeal, as contemplated under law, within two weeks from the date of receipt of a copy of this order. On the petitioner

preferring such an appeal, respondent No.2 shall consider and dispose of the same, in strict accordance with the procedure established by law, within two weeks thereafter and communicate the decision taken thereon to the petitioner within a week thereafter. It is made clear that till such exercise is completed, no coercive action shall be taken against the business being carried on by the petitioner as per the Trade License.

As a sequel to disposal of the Writ Petition, Miscellaneous Petitions, pending if any, stand disposed of as infructuous.

Dt: 22nd December, 2017
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(M.Seetharama Murthi, J)

