**THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM**

**WRIT PETITION No.3198 of 2009**

**O R D E R:**

This writ petition is filed seeking to declare the action of the respondents in insisting the petitioners for payment of trade licence fee in addition to the rent paid to the premises in question, as illegal and arbitrary and consequently, direct the respondents to collect the old rates fixed by Malkajgiri Municipality.

Petitioners assert that they have been paying trade license fee at the rate of Rs.400/- per annum to Malkajgiri Municipality as per the provisions of the A.P. Municipalities Act (for short 'the Act') and after merging Malkajgiri Municipality with the Greater Hyderabad Municipal Corporation on 20.03.2004, the respondents had increased the rate of trade licence fee and accordingly, demanding the same. They further assert that when they approached the respondent authorities with regard to such abnormal increase in the trade license fee, they were informed that enhancement has been made, taking into consideration the rental value. They also assert that the trade licence fee has nothing to do with the rental value.

Respondent Corporation filed a counter-affidavit stating that the petitioners are doing various businesses in the subject premises and that demand for payment of trade licence fee was made under Part IV of Schedule 'P' of Section 521 of the Act with respect to various trades/operations/activities of the year

1999-2000. It further stated that the rates were fixed as per Annexure II published in the schedule of rates of the respondent Corporation and the statement shows the rates of licence fee for various trades. It further stated that inasmuch as the licence fee has been demanded only in terms of the Schedule and in the absence of any challenge to the same, no relief can be granted in favour of the petitioners. It further stated that the rates were fixed in terms of the instructions contained in proceedings, dated 28.03.2008. It specifically denied the allegation of the petitioners with respect to the collection of garbage charges. It also stated that petitioner Nos. 4, 8, 9, 10, 13, 33, 37 and 44 are running bakeries, for which, the license fee as per the Schedule is only Rs.2,200/- and not Rs.9,204/-, as alleged by them.

Heard learned counsel for the petitioners and learned Standing Counsel for the respondents.

While admitting the writ petition, this Court passed an interim order directing the petitioners to pay 50% of the enhanced licence fee.

The respondent Corporation has not stated in the counter-affidavit that the petitioners have not complied with the said order.

It may be noted that except asserting that the enhancement of licence fee is abnormal, no legal ground as such has been raised by the petitioners in this writ petition. It may also be noted that fixation of licence fee essentially is a legislative action which should be done in exercise of the powers vested in the Corporation. However, challenge to such legislative action is not sustainable except on specified grounds. The fixation of licence fee is essentially held to be a legislative action (see *Shri Sitaram Sugar Company vs. Union of India* (1990 AIR 1277)). It is not in dispute that the licence fee has been fixed in terms of the schedule notified in exercise of the powers conferred under the Act.

In those circumstances, there is no merit in the writ petition which is accordingly dismissed.

Miscellaneous petitions, if any, pending in this writ petition shall stand dismissed. There shall be no order as to costs.

**CHALLA KODANDA RAM, J**

Dt:30.08.2018

kdl