

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.25639 of 2009

ORDER:

This writ petition is filed for the following relief:

“For the reasons stated in the accompanying affidavit, the petitioners pray that this Hon’ble Court may be pleased to issue a Writ, order or direction more particularly one in the nature of WRIT OF MANDAMUS, declaring the action of the respondents in issuing the notice on 05.10.2009 in serial No.84343 and on 21.04.2009 vide proceedings No.245/AD1/Advt/GHMC/2008-2009 in serial No.25208 respectively, under Section 421 read with Section 622 of the Municipal Corporation Act, 1955, treating the name Board/board frames fixed by the petitioners on the parapet wall of its business place and consequently demanding the fee for the same is illegal, arbitrary, capricious and in violation of the principles of natural justice and to pass such other order or orders as this Hon’ble Court deem fit and proper in the circumstances of the case.”

The issue raised in the present writ petition is squarely covered by the common order, dated 31.12.2009, passed by this Court in Writ Petition No.23354 of 2009 and batch, the operative portion of which reads as under:

“Hence, the writ petitions are allowed holding that:

- (a) the advertisement fee levied by the Corporation is in the form of a tax referable to Section 197 of the Act and it could not have been levied without specific authority and in accordance with the prescribed procedure;
- (b) the notices impugned in the writ petitions do not accord with Sections 169, 633 and other relevant provisions of the Act, and they are accordingly set aside; and
- (c) the Corporation is entitled to insist on the permissions being obtained for erection and display of advertisements, subject, however, to the exceptions covered by the proviso of sub-section (1) of Section 421 of the Act; and to stipulate fee therefor, commensurate with the service or regulatory activity, and in its discretion to levy tax, under Section 197(f), duly following the prescribed procedure.”

Following the above said common order and for the reasons recorded therein, this Writ Petition is also allowed in terms thereof.

Miscellaneous Petitions, if any pending, shall stand closed.

There shall be no order as to costs.

CHALLA KODANDA RAM, J

2nd AUGUST, 2018.

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