

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.39042 OF 2018

Date:26.11.2018

Between:

K. Nagamalleswar Rao, S/o. Venkateswara
Rao, Aged 50 years, Occ: Proprietor of
K. Malli Sweet Shop, D.No.1-110, Main
Road, Mopi Devi (V&M), Krishna District .. Petitioner

And

The State of Andhra Pradesh, rep., by its
Principal Secretary, Panchayat Raj and
Rural Development, Secretariat, at
Velagapudi, Guntur District and others .. Respondents



The Court made the following:

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ORDER:

Heard learned counsel for petitioner, learned Government Pleader for Panchayat Raj for respondents 1 and 2 and Sri G. Seshadri, learned Standing Counsel for Gram Panchayat for respondent No.3.

2. Petitioner claims that he is running a small sweet shop in an extent of 72 sq. yards of land in R.S.No.188 covered by A.C. Sheets abutting the main road of Mopidevi Village and Mandal, Krishna District. According to petitioner, the said shop was established by his father and after his demise, petitioner is continuing the said business to eke out his livelihood. In support of the claim that petitioner is running a shop for long time, licence fee collected from him from year to year and electricity connection standing in the name of his wife and other receipts are enclosed to the Writ Petition material paper book. This Writ Petition is filed alleging that the respondents are trying to demolish the sweet shop on the ground that the land belongs to the Gram Panchayat and Gram Panchayat intends to construct its office building on the said land.

3. The respondent – Gram Panchayat filed counter affidavit denying the allegations of the petitioner. According to respondent – Gram Panchayat, petitioner was granted licence to sell sweets on a push cart. Petitioner was never granted licence in the place where the shop is claimed to have been established by him. The land occupied by the petitioner belongs to Gram Panchayat. The Gram Panchayat intends to construct its office building on the

subject land and the shop erected by petitioner is obstructing the construction activity to be taken up by the Gram Panchayat. According to Gram Panchayat, the existing building of the Gram Panchayat was under dilapidated condition and required a new building. Gram Panchayat is also planning to construct a shopping complex. To that extent, a resolution was passed on 02.03.2015. The District Collector granted permission for demolition of the existing Gram Panchayat building and for construction of new Gram Panchayat building and shopping complex. Consequently, the building was demolished. After removing the waste material in the month of July, 2018, petitioner occupied the said place where earlier he used to sell sweets on a push cart and erected a temporary shed. This assertion of the respondent - Gram Panchayat is not denied by the petitioner by placing on record any material to show that the licence to sell sweets was granted to petitioner on identified place, as claimed by him.

4. On the contrary, it is a specific assertion of the respondent – Gram Panchayat that licence granted was to sell the sweets on a push cart. Several receipts and other documents enclosed to the Writ Petition only speak about the receipt of licence fee or verification of weights and measures and other aspects, but do not speak about the particular place where licence was granted. In the absence of any other material to show that the petitioner was granted licence to use a particular place of the Gram Panchayat by erecting a temporary shed and selling sweets, the contention of the Gram Panchayat that petitioner has suddenly put up a shop on the land belonging to Gram Panchayat without obtaining prior

permission cannot be brushed aside. As can be seen from the photographs enclosed to the Writ Petition material paper book also, it is only a temporary shed erected. Thus, the action of the respondent – Gram Panchayat in proposing to remove the temporary shed erected by the petitioner cannot be faulted.

5. Therefore, the petitioner is directed to remove the existing temporary arrangement made by him within one week from the date of receipt of a copy of the order. If, for any reason, he does not remove the temporary shed erected by him, it is open to the respondent – Gram Panchayat to take appropriate steps as warranted by law to remove the obstructions created by petitioner. However, petitioner is entitled to carry on his business as per the earlier licence granted to him on a push cart.

6. With the above observations, the Writ Petition is disposed of. Pending Miscellaneous Petitions, if any, shall stand closed.

Date:26.11.2018

KH

P. NAVEEN RAO, J