

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Writ Petition No.39346 of 2018

ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed by the petitioner seeking verbatim the following relief/ s:

“..to issue an appropriate writ, or order or direction, more particularly, one in the nature of Writ of Mandamus, declaring the inaction on the part of the respondents in not acting on the representation of the petitioner, dated 23.10.2018 and threatening to seize the food catering business of the petitioner in Flat No.118, Prajay Enclave, H.No.2-40, Muraharipalli Village & Gram Panchayat, Shameerpet Mandal, Medchal – Malkajgiri District as highly illegal, arbitrary and unconstitutional being violative of Articles 14 and 21 of the Constitution of India and also violative of principles of natural justice and consequently set aside the impugned Notice No.02/ GP/ M/ 2018 dated 22-10-2018 issued by the 4th respondent herein and thereby direct the respondents to allow the petitioner to continue the food catering business in Flat No.118, Prajay Enclave, H.No.2-40, Muraharipalli Village & Gram Panchayat, Shameerpet Mandal, Medchal –Malkajgiri District by acting on representation of the petitioner dated 23-10-2018, in the interest of justice and pass such further or other order or orders that may deem fit and proper in the circumstances of the case.”

I have heard the submissions of the learned counsel for the petitioner, of the learned Government Pleader for Panchayat Raj appearing for the respondents 1 to 3; and, of Sri G. Narender Reddy, learned standing counsel appearing for the 4th respondent.

Learned counsel for the petitioner submits as follows: - ‘By the impugned notice, the petitioner was directed to change his business premises, without any basis; and, a time of seven days is given for compliance of the demand in the notice. The said notice was issued at the instance of business rivals of the petitioner in the locality. On account of the business being run by the petitioner, which is a catering business, no inconvenience is being caused to the neighbors and the

public in the locality. Immediately, on receipt of the impugned notice, the petitioner made a representation, dated 23.10.2018, to the respondents 2 to 4 requesting to withdraw the notice. Since no action has been taken pursuant to the representation and as coercive steps are sought to be initiated pursuant to the impugned notice, the writ petition is filed.'

On 01.11.2018, this Court while adjourning the matter at the request of the learned Standing Counsel for Gram Panchayat, for securing instructions, granted the following interim order: "In the meantime, the respondents are directed not to take any coercive action against the petitioner."

Learned standing counsel, having produced the copy of the complaint said to have been given by one Vijayalaxmi and received in the Gram Panchayat office, on 16.10.2018, along with the photographs, submitted that in the complaint it is stated that the catering business of the petitioner is causing sound pollution. He further submitted that the petitioner is required to obtain necessary trade licence from the Gram Panchayat and that he failed to do so. However, it is fairly stated that in the notice the said aspect is not adverted to.

In that view of the matter, this Court is of the considered view that the writ petition can be allowed reserving liberty to the 4th respondent to initiate appropriate action, if necessary and if so desired, by following the procedure established by law.

In the result, the Writ Petition is allowed and the impugned notice is set aside reserving liberty afore-stated. There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

M. SEETHARAMA MURTI, J

05.11.2018
VJI

