

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 9372 OF 2019

ORDER:

In this Writ Petition, challenge is to the notice dated 24.04.2019 issued by the 2nd respondent Corporation directing the petitioner to close the commercial activity being undertaken in the premises bearing Plot No. 1179, Road No. 45, Jubilee Hills, Hyderabad within twenty-four hours from the receipt of the said notice, failing which, the petitioner was warned with necessary action as per the provisions of Section 461-A / 622(A) / 636 of the Greater Hyderabad Municipal Corporation Act, 1955 (for short, 'the Act').

The case of the petitioner is that it entered into lease with the owner of the subject premises in 2014 and since then, has been running coffee shop in the name and style '*Heart Cup Coffee*', duly obtaining trade license and paying property tax (commercial). While so, the respondent Corporation issued the notice dated 12.03.2019 stating that the commercial activity being undertaken in the subject premises is causing inconvenience to the residents of the vicinity, traffic congestion and also endangering the public life and health and hence, directed to furnish documents i) trade license (permanent and valid), (ii) food license (permanent and valid); (iii) building occupancy certificate along with the approved sanctioned plan; (iv) parking plan clearly mentioning place, capacity and distance from the location; and (v) NOC. It is stated, the petitioner had submitted the explanation, attaching thereto the documents sought by the Corporation to be produced and explaining the status of FIRE NOC applied for and the revised

additional parking plans that were being put in place in the light of the heavy road works being undertaken on Road No. 45. However, a further notice dated 18.04.2019 was issued to the petitioner, without adverting to the reply already submitted to the notice dated 12.03.2019, stating that the documents were not submitted within the time stipulated and hence, it was construed that the petitioner did not have valid legal permission to run the commercial activities and directed its closure within 24 hours. To the said notice, once again, a representation was submitted citing the letter dated 18.03.2019, which was also acknowledged by the 2nd respondent, claims the petitioner. However, to its surprise, the impugned notice dated 24.04.2019 was served on the petitioner, though referring the replies of the petitioner, with an additional finding that out of all the documents submitted by it, only Food license is found to be valid and that it had failed to submit i) trade license; ii) building occupancy certificate along with sanctioned approved plan; iii) parking plan clearly mentioning the place, capacity and distance from the location and iv) fire NOC. The petitioner addressed the letter on 25.04.2019 submitting permanent trade license for 2019-20, building approved sanctioned plan. However, the premises was sealed. Hence, the Writ Petition.

Learned counsel for the petitioner submits that the notice is a non-speaking order and it does not contain any reasons. According to him, his client has continuously been renewing the trade license with the very same 2nd respondent, who has not objected for the same at least once on the said ground. Further, the property was also assessed to tax commercially by the 2nd

respondent itself, contends the learned counsel. Though the petitioner submitted the necessary documents and submitted that FIRE NOC is under consideration, the 2nd respondent, without looking into the explanation submitted by it, recorded that the same is not at all an explanation and hence, its request is found unsatisfactory and cannot be considered, ridicules the learned counsel.

Heard learned Standing Counsel for the respondent Corporation Sri L. Venkateshwar Rao.

In this case, the notice is challenged on the ground that the same is a non-speaking order and without any reasons. Obviously, the notice is vague and not specific. It is only when the violations are specified in clear terms, the same can be responded to by the noticee. In the case on hand, what all the respondent Corporation sought is only certain documents to be produced before them which has been complied with. On perusing the said documents, the respondent Corporation ought to have issued a specific notice alleging violations, if any so as to enable the petitioner to respond. Having not done so, the Corporation issued the impugned notice directing the petitioner to close down the establishment stating that their request is found unsatisfactory, and it cannot be considered. The said act is, undoubtedly, unmeaningful. In those circumstances, the impugned notice is set aside leaving it open to the respondent authorities to take appropriate steps in accordance with law.

The learned counsel for the petitioner submits that the subject premises has been locked and hence, requests to undo the same. Needless to say, as the impugned notice itself is set aside,

the respondent authorities are duty-bound to hand over the keys and remove the seal put to the premises, forthwith.

The Writ Petition with this order, stands allowed. No costs.

Consequently, the miscellaneous Applications, if any stand closed.

CHALLA KODANDA RAM, J

26th April, 2019

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