

THE HON' BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.17646 of 2019

ORDER:

The petitioner-M/s M.S.Traders challenges the Closure Notice dated 20.05.2019 issued by the 3rd respondent directing him to close the trade being run in the premises bearing No.160/C/Nr Ghowari Nagar Street No.04, Old Bowenpally, on the ground that it is causing noise pollution.

Heard learned counsel for the petitioner, and the learned Standing Counsel for the respondents-GHMC.

The facts are not in dispute. The petitioner is running a paper rolling industry in the said premises which is in a residential area. It is alleged that on inspection of the premises on 16.05.2019, it was found that the industry being run by the petitioner has exceeded the permissible ambient noise level standards and therefore directed the petitioner to close the industry.

It is the specific assertion of the petitioner that prior to issuing the impugned closure notice, no Show Cause notice was issued to the petitioner seeking explanation and no opportunity of hearing was afforded to the petitioner. It is further assertion of the petitioner that the noise alleged to be emanating from the petitioner's industry is within the permissible limits and norms as certified by the testing laboratory.

It may be noted that the petitioner, on an earlier occasion, filed W.P.No.13194 of 2019 and the same was withdrawn with liberty to file a fresh writ petition by curing certain technical defects; and therefore, the learned Standing Counsel has already obtained instructions in the matter. Basing on the instructions, learned counsel appearing for Sri Sampath Prabhakar, learned Standing Counsel for GHMC, submits that though it is a matter of fact that the impugned Closure Notice came to be issued without it being preceded by a Show Cause notice and subsequent enquiry, however, the Closure Notice is justified in view of the high decibel noise pollution being caused by the unit being run by the petitioner in a residential locality.

Having regard to the respective submissions, as the right to carry on a trade is a right guaranteed under Article 19(1)(g) of the Constitution of India, and as the closure of the trade unit is likely to jeopardize the livelihood of a number of workmen depending on the industry, the least that is expected of the authorities is to issue a Show Cause notice, call for explanation before directing closure of the unit.

At this point of time, as per the instructions made available to this Court, no Show Cause notice was issued to the petitioner and no explanation was called for before issuing the impugned Closure Notice, and therefore, the impugned Closure Notice is not sustainable in law, as it violates Article 19(1)(g) of the Constitution and also goes against the principle of natural justice.

In those circumstances, the writ petition is allowed by setting aside the impugned Closure Notice dated 20.05.2019. However, this order shall not preclude the respondent authorities to take appropriate action by following due process prescribed under law. No costs. Miscellaneous petitions, if any pending, shall stand closed.

16th August, 2019

KSM

CHALLA KODANDA RAM, J

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