

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.18919 of 2019

ORDER

This writ petition is filed seeking the following relief:

“....to issue writ, order or direction more particularly in the nature of Writ of Mandamus declaring the action of the 2nd respondent in issuing Letter No.NHAI/PIU-HYD/NH-65/7R/Km.130/467-566/2019/935, dt 20-08-2019 directing the 3rd and 4th respondents to close Median Opening and cut the access to the 7-Food Court” of the petitioner at Km 131.20 (Old Chainage Km.130/555) of Hyderabad-Vijayawada Section of NH-65 as arbitrary, unreasonable, illegal and discriminatory and violative of principles of natural justice besides violation of petitioner's rights guaranteed under Article 14 and 19(1)(g) of the Constitution of India and consequently direct respondents 1 to 4 not to take any coercive steps against the petitioner and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

Heard Sri Challa Gunaranjan, learned counsel appearing for the petitioner, Sri G.Venkateswarlu, learned Standing Counsel for Central Government appearing for the 1st respondent and Sri A.Laxminarayana, learned Standing Counsel appearing for the 2nd respondent.

The petitioner is running “7-Food Court” on National Highway-65 i.e., Hyderabad to Vijayawada Road, for the last

ten years. While so, the 2nd respondent has issued notice dated 20.08.2019 directing respondents 3 and 4 to take police assistance and to remove the encroachments.

Learned counsel appearing for the petitioner contended that except making a bald statement, the 2nd respondent has not specified as to what are the encroachments that are to be removed. Since no details have been given by the 2nd respondent, it is difficult to remove the encroachments. It is further contended that the respondents 3 and 4 cannot act on vague notice which was issued to the petitioner on 20.08.2019. It is prayed that the impugned notice is liable to be set aside.

Learned Standing Counsel appearing for the 2nd respondent contended that the petitioner has encroached certain extent of land on the National Highway, which is resulting in accidents. It is further contended that the respondents have prepared a separate note as to what are the encroachments made by the petitioner. It is also contended that the respondents have to give an opportunity to the petitioner and then act on the encroachments made by him, in accordance with law.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the considered view that except making a bald statement that there are

certain encroachments, no details have been mentioned in the impugned notice dated 20.08.2019 as to what are the encroachments that are to be removed by the petitioner. In the absence of the same, the petitioner is not in a position to remove the encroachments. Hence, the impugned notice is liable to be set aside.

Accordingly, the Writ Petition is allowed and the impugned notice dated 20.08.2019 is set aside. However, the respondents are at liberty to issue a notice afresh to the petitioner. It is needless to state that if the petitioner really encroached certain extent of land, the respondents can take appropriate action, in accordance with law. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

26th September, 2019
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