

THE HONOURABLE SRI JUSTICE P. KESHA VA RAO

WRIT PETITION No.5925 of 2014

ORDER:

Heard learned counsel for the petitioners as well as learned Standing Counsel appearing for the 3rd respondent-Municipality.

2. The prayer sought in the writ petition is as under:-

“...to issue a writ or order or direction more particularly one in the nature of writ of Mandamus declaring the action of the respondent No.6 in respect of interfering in carrying on the business of “Sale of Fish” by the petitioners/Street Vendors at Market Area Place in Bhainsa Town Municipality within the limits of 3rd respondent and destroying the their temporary structures of sale stalls and throwing the Fishes in Municipal drainage by abusing in filthy language and thus making causing loss and also doing harassment and preventing petitioners/street vendors from carrying on their business (Street vending) with dignity for their livelihood is illegal arbitrary and violative of Article 19 (1) (g) and 21 of the Constitution of India and particularly against the “NATIONAL POLICY ON URBAN STREET VENDORS, 2009” and against the judgment rendered by the Honourable Apex Court in Maharashtra Ekta Hawkers Union and another V/s Municipal Corporation, Greater Mumbai and others, consequently direct the 6th respondent not to interfere in the Street Vending business of the petitioners/street Vendors in “Sale of Fish” at Market area within the limits of Municipality Bhainsa, District Adilabad and to pass such other and further order or orders, as this Honourable Court may deems fit and proper in the circumstances of the case.”

3. The 3rd respondent filed a counter-affidavit denying the averments made in the affidavit filed in support of the writ petition and contended *inter alia* that some of the petitioners are rich persons and they raised illegal structures between the boundary wall of Government Upper Primary School and the Nala without any right or permission. It is further stated that the petitioners are dumping the waste material in Nala and also on the road, due to which it is emanating foul smell and the residents of that locality and the students are suffering. It is further stated in the counter-affidavit that as the petitioners have encroached on to the road illegally, the same were removed in town with the help of police to avoid inconvenience to the public. Further, the petitioners are not paying any professional tax to the 3rd respondent.

4. Though counter-affidavit has been filed by the 3rd respondent, no reply is filed to rebut the contentions made in the counter-affidavit. Therefore, the contentions raised by the 3rd respondent are deemed to be admitted. In these circumstances, this Court is of the view that there are no merits in the writ petition and the same is liable to be closed.

5. Accordingly, the writ petition is closed.

Miscellaneous petitions pending, if any, shall stand closed. No costs.

6th November 2019
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P. KESHAVA RAO, J