

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.20946 OF 2020

Date: 27.11.2020

Between:

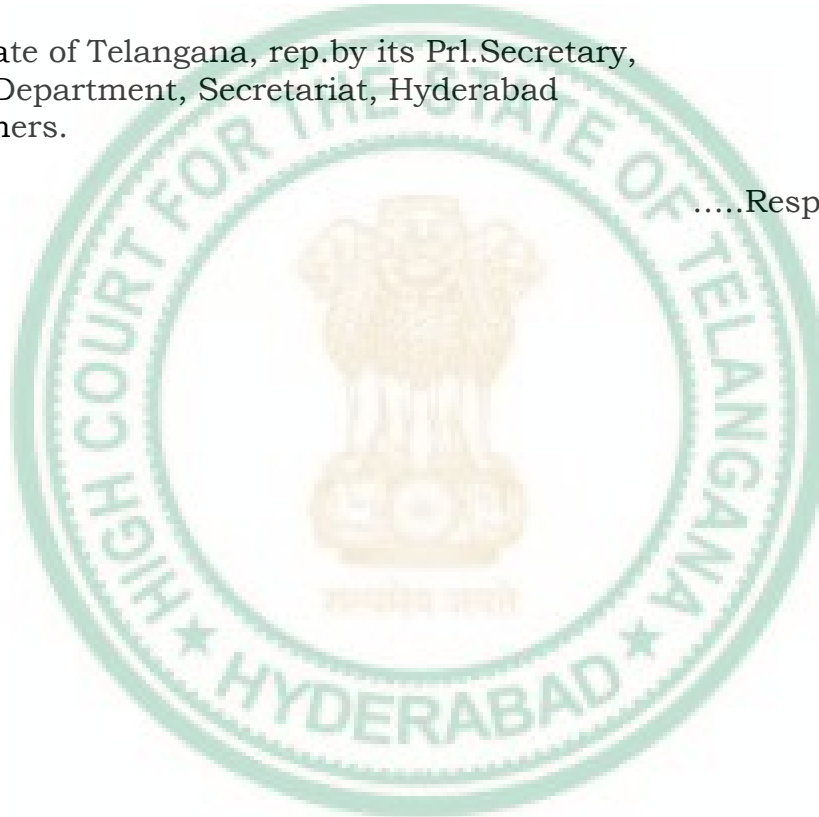
Vasudeva Kirana & General Merchant,
rep.by its Proprietor, Dannarapu
Vasudeva Rao, s/o. Haranatha Babu,
Aged 51 years, r/o. BK Bazar,
Khammam, Khammam district.

.....Petitioner

And

The State of Telangana, rep.by its Prl.Secretary,
Home Department, Secretariat, Hyderabad
and others.

.....Respondents



The Court made the following:

HONOURABLE SRI JUSTICE P.NAVEEN RAO**WRIT PETITION NO.20946 OF 2020****ORDER:**

Petitioner claims to be the owner of Vasudeva Kirana & General Merchant in Khammam town. According to the petitioner, he is doing business in various consumer items including tobacco products. On 29.08.2020, petitioner purchased tobacco products and the same is supported by waybills and payment of taxes. Petitioner now alleges that Crime No.253 of 2020 is registered under Sections 270 and 273 of IPC in I Town P.S. of Khammam on the allegation that petitioner was in possession of banned tobacco products. It is seen that after conducting investigation, charge-sheet is filed and the Additional Judicial Magistrate of First Class has taken cognizance of the crime, which was numbered as C.C.No.1666 of 2020. Petitioner earlier filed Criminal Petition No.5324 of 2020 to quash the proceedings. However, this Court only directed release of tobacco products.

2. By placing reliance on interim orders of Division Bench of this Court in W.P.No.4205 of 2020, in which interim order was granted staying the operation of notification dated 06.01.2020, which banned sale of certain tobacco products, this writ petition is filed alleging that in spite of stay granted by the Division Bench of this Court, respondent-Police are interfering in the business activity of the petitioner and the same is illegal.

3. In this writ petition, the prayer sought is only against the respondent-Police not to interfere in the business activity of the petitioner. Petitioner does not assail the validity of the notification

issued by the Government, which is basis for the respondent-Police to take proceedings against the petitioner on the allegation of selling of banned tobacco products. It is no doubt true that cases are pending before this Court, where individuals have assailed the validity of the Government decision to ban certain tobacco products. The validity of the said decision of the Government is yet to be decided by this Court. Based on the interlocutory orders passed in favour of the petitioners in other writ petitions, petitioner cannot say that he is entitled to undertake sale of banned tobacco products and allege illegal interference.

4. According to the learned Government Pleader, 19 cases were booked against the petitioner earlier and in 16 cases, petitioner was convicted and in three cases, he is facing trial. The Court is not expressing any opinion on this aspect. However, having regard to the prayer sought in the writ petition, Writ Petition is not maintainable. Petitioner cannot be allowed to carry out sale of prohibited products and allege interference by the Police. Therefore, Writ Petition is dismissed, leaving it open to the petitioner to work out his remedies as available in law, if so advised, on the validity of the Government decision to ban certain tobacco products. Pending miscellaneous petitions shall stand closed.

JUSTICE P.NAVEEN RAO

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