

IN THE HIGH COURT OF ORISSA AT CUTTACK
CONTC No.2134 of 2021

***IBSWT (Infosys Banika Sangha
Welfare Trust) & Others***

....

Petitioners

Mr. Srinivas Mohanty, Advocate
Ms. Kabita Patra, Advocate
Mr. Sujit Kumar Acharya, Advocate

-versus-

Prem Chand Choudhary & Others

....

Opposite Parties

Mr. Bijaya Kumar Dash, Advocate

CORAM:
JUSTICE JASWANT SINGH
JUSTICE M.S. RAMAN

ORDER (Oral)
21.07.2022

Order No.

06. 1. This matter is taken up by virtual/physical mode.
2. Alleging non-compliance of Order dated 11th February, 2020 passed in W.P.(C) No. 4509 of 2020, the Petitioners have filed the contempt petition under Section 12 of the Contempt of Court's Act, 1971.
3. This Court while disposing of the aforesaid writ petition passed the following Order on 11th February, 2020:-

“Heard learned counsel for the Petitioners and Mr. Nayak, learned Additional Government Advocate.

Accordingly to Mrs. Kabita Patra, the grievance of the Petitioners in this case is that Opposite Party No.3 has announced to demolish the shops of the Petitioners situated at Infosys Area, Chandaka Industrial Estate, Bhubaneswar without any written notices and without allotting alternative sites for relocation of their shops in the background of the provisions of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014.

Mr. Nayak, learned Additional Government Advocate submits that instead of approaching the Opposite Party No.3 in the matter, the Petitioners have unnecessarily rushed to this Court.

Considering the submission made, this Court permits the Petitioners to move the Bhubaneswar Municipal Corporation (Opposite Party No.3) by filing comprehensive grievance petition highlighting all their grievances within a period then days from today. In the event, such a grievance petition is filed before Opposite Party No.3, the said opposite Party is directed to take a decision on the same in accordance with law by passing a reasoned order after giving an opportunity of hearing to the Petitioners.

Till disposal of the grievance petition, no coercive action shall be taken against the Petitioners with regard to their shops situated at Infosys Area Industrial Estate, Chandaka, Bhubaneswar.

While parting with the order, we direct the appropriate Government to form Grievance Redressal Forum under Section 20 of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 within a period of two months from the date of receipt of the certified copy of this order and the matter be communicated to this Court through Mr. Nayak, learned Additional Government Advocate.

The writ application is disposed of.”

4. Mr. Bijaya Kumar Dash, counsel for the Opposite Parties filed an affidavit sworn to by Mr. Vijay Amruta Kulange, I.A.S., Commissioner, Bhubaneswar Municipal Corporation indicating compliance of Order dated 11th February, 2020 passed in afore-noted writ petition.

5. Paragraph 3 of the said affidavit runs as follows:-

“That the Petitioner had submitted his representation dated 14th February, 2020 stating his grievance therein and

the matter could not be heard due to COVID-19 and other engagements like the preparation for General Election, 2022 to BMC. The matter was heard in presence of Sri Banamber Mohapatra, president of IBSWT & on verification of documents and enquiry reports, it is found that Banamber Mohapatra is staying in the house of one Sri Bijay Sahoo on rent in Chiragolatola slum at Prasanti Vihar in Ward No.1 of BMC. After perusal of the documentary evidences, it is found that, out of 21 Petitioners at present there are seven Petitioners who are doing their temporary business on the roadside of Infosys square without any valid trade license. The documents produced by the Petitioners in the writ claiming the vending, fees are actually receipts of user fees collected from them towards penalty due to littering on the road, which cannot be considered as evidence for ensuring their right, title and interest. Further the area where the Petitioners are doing their temporary business on road is industrial estate owned by IDCO and BMC has no uthority over such land to consider the representation of the Petitioners. The Bhubaneswar Municipal Corporation has no jurisdiction for formation of Grievance Redressal Forum under Section 20 of Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014. Accordingly the representation of the Petitioners has been disposed of vide Order No.28644 dtd.09.06.2022 of the Commissioner, BMC, who has been included as Opposite Party in this contempt case.”

6. Enclosing the Enquiry Report of Amin, Bhubaneswar Municipal Corporation to the aforesaid affidavit it has been submitted that there is no trade license issued favouring claim of the Petitioners who have been shown as encroachers of the road of Industrial Estate belonging to IDCO.

7. In view of furnishing compliance affidavit before this Court, no deliberate or wilful violation in complying the terms of Order dated 11th February, 2020 is found.

8. There is, therefore, no warrant to proceed with the contempt any further and the contempt is dropped. The contempt petition is dismissed.

(Jaswant Singh)
Judge

(M.S. Raman)
Judge

Laxmikanth

July 21st, 2022 Cuttack

