

(2016) 06 KAR CK 0209

In the Karnataka High Court

Case No : Writ Petitions 28461-462 connected with 43960-44030 of 2015 (LB-RES)

Asif Pasha

APPELLANT

Vs

Commissioner, Mysore City Corporation, Mysore

RESPONDENT

Date of Decision : 14-06-2016

Acts Referred:

Constitution of India, 1950 — Article 226
Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014
— Section 3, Section 4

Citation : (2016) ILRKarnataka 3871 : (2016) 3 KCCR 2550

Hon'ble Judges : Vineet Kothari, J.

Bench : Single Bench

Advocate : Sri R.S. Ravi for Sri Chandan T.J, Advocates, for the Petitioner; Sri H.C. Shivaramu, Advocate, for the Respondent

Final Decision : Disposed Off

Judgement

Vineet Kothari, J. - Both these writ petitions are disposed of by this common order.

2. Petitioners in these two writ petitions are up against the Mysore City Corporation claiming that they are street vendors carrying on the business in the small temporary constructions or sheds raised by them at public places and the authorities of the respondent Mysore City Corporation off and on evict them from their respective places, where they are carrying on their business on day to day business and being poor self-employed people, they are entitled to the protection under the recently enacted Act viz., Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014.

3. Mr. R.S. Ravi, learned Counsel for the petitioners urged that despite several representations, the authorities of the respondent Corporation have failed to abide by the provisions of the aforesaid Act of 2014 and without any prior notice or orders, they just visit the public places where the petitioners are carrying on

their business and forcefully evict them from the places like Gandhi Square, Corporation Office and various other places in Mysore City where they carry on the business of vending belts, wallets, clothes, etc. The prayers made in the writ petitions are quoted below for ready reference:

In WP 28461-462/2015

a. issue a writ of mandamus directing the respondent to prepare a Plan for street vending, to promote the vocation of street vendors and to take steps to appoint Town Vending Committee in order to relocate or evict the street vendors as per the Street Vendors (Protection of Livelihood & Regulation of Street Vending) Act, 2014;

b. issue a writ of mandamus directing the respondent not to evict the petitioners from the place of their business at Gandhi Square, Mysore without following the procedures contemplated in the Street Vendors (Protection of Livelihood & Regulation of Street Vending) Act, 2014;

c. Issue such other relief or reliefs as this Hon"ble Court deems fit to grant in the facts and in the circumstances of the above case.

In WPs 43960-44030/2015

a. Issue a writ of mandamus directing the respondent not to evict the petitioners from the place of their business at backside of Tempo Stand near Gandhi Square, Mysore without following the procedures contemplated in The Street Vendors (Protection of Livelihood & Regulation of Street Vending) Act, 2014.

b. Issue such other relief or reliefs as this Hon"ble Court deems fit to grant in the facts and in the circumstances of the above case.

4. While entertaining the present writ petitions, a co-ordinate Bench of this Court, on 13.7.2015, directed the parties to maintain status-quo till the next date but that ad-interim order came to be vacated after hearing both the parties on 9.3.2016 while allowing IA 2/2015.

5. Mr. H.C. Shivaramu, learned Counsel appearing for the respondent Corporation, referring to the statement of objections filed by him, also submitted that the provisions of the aforesaid Act of 2014 have already been complied with and a Town Vending Committee for each zone or ward has been constituted. He drew the attention of this Court towards Annexure R6 dated 30.6.2014 by a Committee comprising of the Commissioner of Mysore City Corporation as the Chairperson of the said Committee and other Members which include the Mayor, Commissioner, Deputy Commissioner of Police, Joint Director of Town Planning, Revenue Officer, certain members of NGOs and about eight registered street vendors was constituted. He also submitted that after vacation of the ad-interim order on 9.3.2016, the prayer No. (a) of the petitioner street vendors who do not hold any registration or license under the provisions of the said Act or under the provisions of the Karnataka Municipalities Act, 1964, does not survive. He also

submitted that if the petitioners still have any grievance in the matter, they can approach the respondent Municipal Corporation by way of a representation which will be considered in accordance with law.

6. He also submitted that one Mr. Ayub Khan claiming to be the President of the State Samaja Rakshana Vedike has unauthorisedly allowed the present petitioners to squat and do their vending business at public places without appropriate license and registration under the provisions of the Act and they have no legal right to carry on the business at the said place without complying with the requisite bye-laws and Regulations in this regard.

7. I have heard the learned Counsel at some length, perused the record and the provisions of the aforesaid Act of 2014.

8. A perusal of the preamble, Statement of Objects and Reasons of the said Act of 2014 and some of the provisions of the said Act like the definition of "Street Vendors" ; Sections 3 & 4 in Chapter II providing for regulation of street vending; Chapter III providing for rights and obligations of street vendors; Section 8 providing for vending fees to be charged from every vendor; provisions in Chapter IV for the relocation and eviction of street vendors; Chapter V providing for dispute redressal mechanism; Chapter VII providing for constituting of the Town Vending Committee, etc., indicates that the said enactment is a beneficial legislation for the poor and small time street vendors providing for a procedure to be followed by the Municipal Corporation regulating their business and providing them some space on the public places while maintaining law and order and hygiene of the Town or City in terms of the guidelines laid down by the Committee constituted by the Hon"ble Supreme Court vide Annexure R5 dated 3.3.2015.

9. It is submitted by learned Counsel for the respondent Corporation that in accordance with the letter and spirit of these directions and provisions of the Act of 2014, not only a Town Vending Committee has been constituted in terms of Section 22 of the Act of 2014, but the petitioners before this Court can also apply for seeking appropriate license under the said Act, in, accordance with the Rules.

10. Having heard the learned Counsel for parties, this Court is of the opinion that giving of any mandamus or direction to the respondent Municipal Corporation to comply with and abide by the provisions of the Act of 2014 is too broad a proposition to require any mandamus/direction of the Court. The Legislature has already enacted such an Act for the benefit of the street vendors and there are all the reasons to believe that the respondent Municipal Corporation is bound by the provisions of this Act and is also bound to comply with the provisions of the said Act. Unless a specific instance of any violation of the provisions of this Act is established before this Court, the writ jurisdiction cannot be invoked on the sweeping averments made in the present case also.

11. Paragraph 4 of the writ petitions, to its relevant extent, is quoted for this purpose "It is further submitted the officials from respondent keep on visiting the

petitioner's place of business and continue to threaten the petitioners and other co-vendors to vacate the shops". When, where and who visited or evicted the petitioners or even threatened to evict, is not specified. It is true that some representations appear to have been made on behalf of the Society vide Annexure C dated 30.6.2015 to the Commissioner of the respondent Mysore City Corporation but that also appears to be as vague as it could be. This Court is conscious of the fact that the petitioners are poor, small time businessmen and may not be even qualified enough to adopt the course of law in strict letter and spirit. Nonetheless, the petitioners cannot be permitted to hold forcible possession of any public place nor it can be allowed to them to carry on business of vending at such places without complying with any provision of law. Like any other citizen of the country claiming fundamental right to carry on the business or profession guaranteed under Article 19(1)(g) of the Constitution, they are also equally subject to reasonable restrictions in the form of relevant laws, regulations and bye-laws. This Court does not find any adequate material on record to direct the respondent Municipal Corporation to comply with the provisions of the Act of 2014, which in law otherwise also, they are expected to do, once the said law, enacted by the State Legislature is in its place on the Statute book.

12. As far as the redressal of the grievance of the particular individual or even the members of the Society of small time street vendors is concerned, suffice it is to say that these petitioners will be at liberty to approach the respondent Municipal Corporation for seeking appropriate license and permission to carry on their street vending business at the designated place subject to payment of fees and complying with the conditions of such license as may be imposed by the respondent Municipal Corporation in terms of the Act of 2014 and other relevant provisions of the Karnataka Municipalities Act, 1964, Rules and bye-laws thereunder.

13. Therefore, with the aforesaid observations, directions and liberty to the petitioners as well as to the respondents, these writ petitions are disposed of, with no order as to costs.