
(2011) 07 CHH CK 0072
In the Chhattisgarh High Court
Case No : Writ Petition C No. 1526 of 2011

Bhinsara Enterprises

APPELLANT

Vs

State of Chhattisgarh and Others

RESPONDENT

Date of Decision : 11-07-2011

Acts Referred:

Chhattisgarh Municipal Corporation Act, 1956 — Section 427(23), 432A
Constitution of India, 1950 — Article 226

Citation : (2011) 07 CHH CK 0072

Hon'ble Judges : Satish K. Agnihotri, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Satish K. Agnihotri, J.

(Writ Petition under Articles 226 of the Constitution of India)

1. Heard learned Counsel for the parties.
2. By this petition, the Petitioner seeks to quash the notice dated 15-11-2010 (Annexure - P/4) issued by the Respondent No. 3.
3. Learned Counsel appearing for the Petitioner submits that the Petitioner is engaged in the business of advertisement. For the said purpose the buildings of Municipal Corporation, Jagdalpur as well as private buildings are used. For putting hoardings the Municipal Corporation is charging the exhibition and licence fees. However, all of a sudden the Respondent No. 3 is restraining the Petitioner from placing its hoardings on the terrace of the private buildings and compelling the Petitioner to handover its private space which the Petitioner has taken on rent and a notice dated 15-11-2010 was issued to the Petitioner. It was emphatically contended by Shri Shrivastava that there was an agreement between the private building owner and the Petitioner and the hoardings were placed on the terrace of the private building. Thus, the authorities cannot put any restriction or regulation.

4. According to Shri Shrivastava, the Petitioner replied to the said notice on 14-2-2011 and stated that the Petitioner is ready to pay the advertisement fees as prescribed for using the terrace of the private buildings for placing advertisement. The Respondent No. 3 instead of accepting the advertisement fees from the Petitioner is taking action against the Petitioner for removing the hoardings. The impugned action of the Respondents is illegal, arbitrary and not in accordance with law. Hence, this petition.

5. On the other hand, Shri Kachhawaha, learned Counsel appearing for the Respondents No. 2 & 3, submits that the fees was deposited by the Petitioner for the period 2009-10. The lease period has come to an end on 31-3-2011, which can be seen from Annexure - P/4 dated 15-11-2010. Thereafter, fresh tender process has been initiated and the place has been allotted to the successful bidders. Therefore, the Respondent Corporation has not committed any illegality or irregularity. Immediately after completion of the lease period, the Petitioner is required to remove the hoardings, but the same has not been done by it. Hence, the notice dated 15-11-2010 has been issued.

6. The State Government, in exercise of its power u/s 432A of the Chhattisgarh Municipal Corporation Act, 1956 (for short 'the Act, 1956') framed bye-laws, namely, The Advertisement (Registration & Regulation) Bye-Laws, 2010 (for short 'the Bye-Laws, 2010) to regulate advertising profession/services as provided under Sub-Section 23 of Section 427 of the Act, 1956. Clause 2 of the Bye-Laws, 2010 which was notified on 11.02.2010 (Annexure P/3) defines the term 'advertisement'. On bare perusal of the definition, it is clear that advertisement means establishing hoardings on private or public place in metal, glass, flex or any other material for social, commercial or other purpose. The hoardings placed on the private buildings comes within the definition of advertisement. Hanging, pasting, placing on roof of the houses, walls, pole or electricity pole or any other place in the ground or erecting structure for advertisement on ground also come within the definition of the advertisement. Thus, the municipal corporation is fully justified to regulate the establishing of hoardings at any place including roof of a private building.

7. The identical issue came up into consideration before the Supreme Court, arising from Chennai City Municipal Act, in M/s. Novva Ads v. Secretary, Deptt. Of Municipa Administration & Water Supply and Anr., wherein the Supreme Court observed as under:

23. Hoardings erected on private places also require to be licensed and regulated as they generally abut on and are visible on public roads when put up on private buildings; they may be dangerous to the building and to the public; they may be hazardous and dangerous to the smooth flow of traffic by distracting traffic, and their content may be obscene or objectionable. It is, therefore, not correct that hoardings on private places do not require to be regulated by licensing provisions.

8. From the notice dated 15-11-2010 (Annexure - P/4) it is evident that the

permission granted to the Petitioner for putting hoardings on the buildings has come to an end on 31-3-2010 and thereafter, fresh tender process has been initiated and the places have been allotted to the successful bidders. The Respondent authorities have not committed any illegality or irregularity.

9. In view of foregoing, the writ petition is liable to be and is accordingly dismissed. No order as to costs.