

(1986) 07 KAR CK 0025
In the Karnataka High Court
Case No : W.P. No. 9447 of 1986

Mohamad Samiulla

APPELLANT

Vs

Town Municipal Council, Ramanagaram

RESPONDENT

Date of Decision : 17-07-1986

Acts Referred:

Karnataka Municipalities Act, 1964 — Section 87(H)(I)

Citation : (1987) 1 KarLJ 239

Hon'ble Judges : M. P. Chandrakantharaj Urs, J

Judgement

Chandrakantharaj Urs, J.-The petitioner was holding a licence from the Town Municipal Council Ramanagaram, to vend mutton in his shop at Masjid Mohalla of Ramanagaram near the railway station. He had been operating on such licences for the last four years. For the year 1986-87 he applied for renewal of licence to the Chief Officer, Town Municipal Council, Ramanagaram. By an endorsement dated 3-4-1986 which is at Annexure-A to the petition, the Chief Officer has informed the petitioner that the application for renewal of his licence was placed before the Town Municipal Council at its meeting held on 1-4-1986 and the Municipal Council had decided not to renew the licence as it would not permit any private mutton vending shop in Ramanagaram. Aggrieved by the same, the present petition under Art. 226 of the Constitution is filed seeking the quashing of Annexure-A as being without the authority of law and being contrary to law without assigning any reason for not renewing the licence. It is further prayed that this Court may issue a writ of mandamus to renew the licence.

2. Emergent notice issued to the Town Municipal Council, Ramanagaram. was served on 11-6-1986. Acknowledgment has been received back on or about 20-6-1986. On 25-6-1986 when this matter came up for hearing none had entered appearance on behalf of the respondent. In that circumstance it was adjourned by two weeks. Even on 10-7-1986 none appeared for the respondent. It was once again adjourned to 17-7-1986. Today also none appears. Therefore, the respondent is placed ex-parte.

Mr. Papanna, learned Counsel appearing for the petitioner, has drawn my attention to Sec. 244 of the Karnataka Municipalities Act, 1964, (hereinafter referred to as the Act). The said section deals with the opening or closing of any public markets or slaughter houses. It also provides that the Municipal Council may also either take stallage or other rents or fees for the use by any person of any such market or slaughter house etc. He submits that the Town Municipal Council has neither provided stallage or shop for vending mutton or other meat. Sec. 243 of the Act provides that the Town Municipal Council may direct that there shall be no slaughter house or vending of mutton in a place which does not belong to or vested in the Municipality except in accordance with the conditions of the licence issued by the Municipal Council.

4. That the petitioner had licence to vend mutton at the place specified in the licence cannot be disputed as the same is evident from the endorsement issued by the Chief Officer at Annexure-A to the petition. One of the obligatory functions of the Municipality is to be found in clause (i) of sub-sec. (h) of Sec. 87 of the Act provides for the Municipal Council constructing and maintaining among other things slaughter houses and markets. If it does not provide a slaughter house and the market for vending meat, separate and distinct from vegetable market, it ought to licence vendors of meat to vend meat at convenient place which is suitable for such purpose till a market is built. If it does not, it will be failing in the performance of its obligatory duties.

5. Not renewing the licence of the petitioner, nor providing a separate municipal market for vending mutton, is therefore contrary to law. For the reasons given above, the petitioner is entitled to have the endorsement quashed and also to a direction to consider his application for renewal of licence in the light of the observations made in the course of this order.

6. It is needless for me to point out that the respondent-Chief Officer is bound to appraise the Town Municipal Council of its obligatory functions and the application already filed for renewal of the licence for vending of mutton for the year 1986-87 should be considered afresh.

7. Rule will accordingly issue and be made absolute. Annexure-A is quashed. The application for renewal will be disposed of within two weeks from the date of receipt of this order.