

(2018) 01 KAR CK 0007
In the Karnataka High Court
Case No : 1925 of 2018

M/S CITRUS RESORTS PVT LTD.

APPELLANT

Vs

THE BRUHAT BANGALORE MAHANAGARA PALIKE

RESPONDENT

Date of Decision : 17-01-2018

Acts Referred:

Citation : (2018) 01 KAR CK 0007

Hon'ble Judges : Vineet Kothari

Bench : Single Bench

Advocate : PUTTIGE R. RAMESH, R. RAMACHANDRAN

Final Decision : Disposed off

Judgement

1. The controversy involved in the present case is squarely covered by the decision of this Court recently rendered in W.P.No.763/2018 c/w

W.P.No.1780/2018 on 11.01.2018, in which this Court is held as under:-

11. The only grievance and apprehension of the petitioner-restaurant raised before this Court is that straightaway a direction to close down its

establishment has been issued without giving an opportunity of hearing or passing an adjudication order specifically pointing out the violation of

various rules and regulations by the petitioner-restaurant is also rather an unfounded apprehension. The petitioner-restaurant has not even

approached the respondent-Joint Commissioner by a suitable representation with relevant evidence. Therefore, it cannot be said whether the threat

to close down the petitionerrestaurant is an adjudicatory order passed by the Joint Commissioner or is only an indicated consequence, which may

follow, if the petitioner fails to show-cause before the concerned authorities.

12. To this Court, it is very clear that it is not merely the label of impugned

communication, but the whole tenor of the impugned communication is only that of a notice and the threat of closure is only a consequence to follow, if adequate cause is not shown before the respondent authority.

13. Of-course, all these will require an adjudication process at the hands of the concerned authorities and, therefore, it would be misconceived and

premature for this Court to cut short the said process and take it upon itself to undertake such an adjudication process. There is neither any

evidence on record nor details of allegations and complaints of adverse material before this Court on the basis of which the said notice has been

given to the petitioner-restaurant and it also appears that such notices have been given to a large number of commercial establishments of this

nature in the city of Bengaluru. The Municipal authorities should ensure compliance with all relevant norms and standards including fire safety norms

by the establishments. If all such individual causes were to be taken up by this Court so prematurely at this stage, the very purpose of giving all

these notices for an adjudication to be made by the concerned competent authority is likely to be frustrated. This Court is not inclined to do so.

14. Therefore, it is considered appropriate, just and proper under these circumstances to direct the petitioner to appear before the concerned

authority in pursuance of the said notice immediately and furnish all relevant evidence and materials before the concerned authority. It goes without

saying that the said authority will put across whatever adverse material is available against the petitioner-restaurant or the norms and requirements

which they should fulfill and after affording a reasonable opportunity of hearing and considering the evidence adduced by the petitioner-restaurant

and compliance with requirements made by them, a reasoned and speaking order would be passed by the concerned authority. That is the only

appropriate way of complying with the principles of natural justice which is embedded in the rule of law, by which our country is governed in the

constitutional scheme and which deserves to be followed without an iota of doubt in the cases of this nature as well.

15. Accordingly, the writ petition is disposed of. The petitioner is directed to appear before the respondent-authority in the first instance on

16.01.2018 at 11.00 a.m. During the course of enquiry, the respondent authority can even call upon the petitioner-restaurant to abide by other

regulatory measures including fire safety measures as is expected of the petitioner restaurant and other similarly situated business establishments as well. It is expected of the concerned authority to pass appropriate orders in the matter, as expeditiously as possible.

16. In W.P. No.1780/2018, the difference pointed out by the learned counsel for the petitioner in response to the impugned notice/order is that the petitioner has already given its representation to the respondent-Joint Commissioner, but the respondent even refused to accept the same as stated in paragraph 11 of the writ petition.

17. In these circumstances, the said writ petition is also disposed of in same terms and the petitioner herein would be at liberty to move the same representation along with evidence and additional representation, if any, before the concerned Joint Commissioner on 16.01.2018 at 11.00 a.m., as aforesaid.

2. In view of the same, the present writ petition is also disposed of in the same terms. The 2nd Respondent- Asst.Health Officer, Mahadevapura

Zone, BBMP, Bangalore, who has served the impugned Notice Annexure-A dated 29.12.2017 and Demand Notice Annexure-B dated

09.01.2018 on the petitioner, shall undertake the further proceedings in the light of the said order quoted above and pass appropriate speaking

order as directed. The petitioner in the first instance may appear before the said authority on 24.01.2018. No costs.