

(2008) 01 AP CK 0060

In the Andhra Pradesh High Court

Case No : Writ Petition No's. 1083 and 1316 of 2008

Nethikunta Anjaiah and Another

APPELLANT

Vs

High Court of A.P. and Another

RESPONDENT

Date of Decision : 28-01-2008

Acts Referred:

Constitution of India, 1950 — Article 227, 235

Citation : (2008) 3 ALD 689

Hon'ble Judges : V. Eswaraiah, J

Bench : Single Bench

Advocate : Wasim Ahmed Khan, for the Appellant; P.V. Sanjay Kumar, SC, for the Respondent

Judgement

V. Eswaraiah, J.—Heard learned Counsel appearing for the petitioners and the learned Standing Counsel appearing for the Honourable High Court of A.P.

2. Petitioners in WP No. 1083 of 2008 are the persons who have been granted licences to establish Xerox machines at the premises of the District Court, Karimnagar and the period of licence which has been granted and renewed from time to time has been expired by 31.12.2007, and therefore, they seek to issue a writ of mandamus directing the Principal District and Sessions Judge, Karimnagar to renew/grant permission to conduct the business in the space which was given to them.

3. WP No. 1316 of 2008 has been filed by the persons who have been allotted space in the Secunderabad City Civil Court compound to eke out their livelihood as typists, xerox, stamp vendors, notary, sale of law books etc. and the existing licences are valid upto 31.12.2007. Petitioners seek to issue a writ of certiorari calling for the records in circular issued by the High Court in Roc. No. 499/2006-DII (B), dated 18.6.2007, and to set aside the same.

4. Learned Counsel appearing for the 2nd petitioner in WP No. 1316 of 2008 submits that by virtue of the said circular the existing livelihood of the petitioners

is sought to be taken away and the said circular is general in nature but not specific dealing with all the eventualities in respect of such licencees, more so, in respect of the Court Complex at Secunderabad. It is further stated that the circular has been issued taking into account the shortage of space and sublease of the existing space-holders. Insofar as the Secunderabad Court Complex is concerned there is no allegation against any of the licensees with regard to the sublease of the space and congestion or shortage of space and therefore, the circular issued making it applicable to the licensees at Secunderabad Court is illegal, and unsustainable. It is further stated that there is no basis whatsoever for issuing such a circular and no material has been collected from various Courts and therefore, it cannot be said that there is shortage of space in the Court Complex. It is further stated that the 1st respondent has not consulted the respondents 2 and 3 and therefore, such a circular issued by the High Court is illegal and unsustainable.

5. I have perused the circular which goes to show that the High Court has noticed that the shops/stalls licensed in the Court premises have affected the atmosphere inside the Courts. It was also observed that some of the original licensees have sublet the premises to the petitioners. The High Court, having considered the issue of atmosphere inside the Courts and also as in certain cases the premises have been sublet to others, has taken a policy decision that there should not be any shops or stalls inside the Court premises anywhere in the State. It is further observed that there is already shortage of space in view of the increase of litigation and therefore space is required by the Courts for their own use. Accordingly, general directions were issued not to renew the licences wherever period of licence is over and not to allot any space to such licensees any more. Admittedly, petitioners have no vested right to carry on the business occupying the space in the Court Complex.

6. Under Article 227 read with 235 of the Constitution of India the High Court has overall control over the District Courts and the Courts subordinate thereto, and in view of the power of Superintendence and Administration of justice insofar as the Courts are concerned, it cannot be said that the High Court has no power or authority to issue such a circular taking policy decision. In fact, the learned Counsel appearing for the respondents submits that without permission of the High Court spaces cannot be allotted in favour of such individuals and in view of the previous policy decisions such spaces have been allotted to facilitate the litigant public as well as the Advocates but having experienced the shortage of space and misuse of the spaces allotted to such licensees and as the atmosphere inside the Court premises has been affected, it is stated that it is not open for the petitioners to contend that there is no shortage of space in Secunderabad Court Complex. In view of the fact that there are fifty six persons questioning the circular who were given such permission within the Secunderabad Court Complex, which is not as spacious as sought to be contended by the petitioners and that the atmosphere within the Secunderabad Court Complex is also said to have been affected by reason of giving as many as fifty six spaces to the

petitioners, I am of the opinion that the High Court, having noticed about the affect of atmosphere inside the Courts and the shortage of space, has taken a general policy decision not to extend the period of licence, not to grant any such licences, and not to allot such spaces any more. Therefore, it cannot be said that the said circular is illegal or unsustainable.

7. It is further brought to my notice that questioning the said circular/letter, dated 18.6.2007, of the 1st respondent directing not to permit any licensee or lessee within the Court compound, WP No. 15618 of 2007 was filed by one Y. Nagendra Babu and this Court disposed of the same holding that the permission granted to him to install the Xerox machine at the identified place was subject to certain conditions and the High Court has taken a policy decision not to permit any licences, in the premises of the Courts, all over the State, and no exception can be taken to it and accordingly he was granted time to vacate and remove the Xerox machine. Aggrieved thereby, petitioner therein filed W.A. No. 700 of 2007 before the Division Bench of this Court, and the Division Bench by order, dated 5.9.2007, while dismissing the writ appeal granted one month time to vacate the premises subject to furnishing an undertaking in the form of an affidavit that he will handover the vacant possession of the site to the Officer designated by the District Court.

8. Learned Counsel appearing for the respondents further brought to my notice that the order made by this Court in W.P. No. 18660 of 2007, dated 16.9.2007, wherein "the notice issued by the District Judge, Chittoor, pursuant to the circular issued by the High Court was questioned. While disposing the said writ petition by order, dated 16.9.2007, it was opined that the petitioners therein were not entitled to continue to carry on the said business after the expiry of the period of licence in view of the circular issued by the High Court and accordingly, one month twenty-four days time was granted for vacating the premises.

9. I am of the opinion that the circular issued by the High Court does not suffer from any legal infirmity, and the petitioners have no legal or vested right, to question the said circular. Courts are temples of justice, and therefore maintenance of serene atmosphere in the Court premises is required.

10. In view of the increase of litigation day by day there is shortage of space in the Court Complexes, and therefore, a general decision has been taken by the High Court not to renew the existing licences, and not to permit such licensees after the expiry of the period of licences and not to allot any such places in future.

11. Therefore, I am of the opinion that in view of the power vested in the High Court under Article 227 read with 235 of the Constitution of India, it cannot be said that the High Court has no power to take a general policy decision. It is for the High Court alone to take a policy decision insofar as all the matters relating to administration of justice are concerned. I am of the opinion that it cannot be said that the decision taken by the High Court is arbitrary, unsustainable or without any justification.

12. Learned Counsel appearing for the petitioners seeks to grant a reasonable time to vacate and handover the vacant possession of the said premises.

13. Having regard to the facts and circumstances of the case, writ petitions are disposed of subject to the condition of the petitioners giving an undertaking before the Licensing Authority by way of filing an affidavit that they will vacate and handover the vacant possession of the said premises on or before 31.3.2008 and if they fail to vacate the same, it is open for the respondents to forcefully evict them or place them out of the Court Complex. There shall be no order as to costs.