
(2016) 12 AP CK 0054

In the Andhra Pradesh High Court

Case No : Writ Petition No. 23411 of 2012

Oxford High Shool

APPELLANT

Vs

Warangal Municipal Corpn.

RESPONDENT

Date of Decision : 20-12-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Hyderabad Municipal Corporation Act, 1955 — Section 521(1)(e)

Citation : (2017) 1 HLT 309

Hon'ble Judges : A. Ramalingeswara Rao, J.

Bench : Single Bench

Advocate : S. Sri Ram, Counsel, for the Petitioner; Pingali Lakshmi, SC for Warangal MC, for the Respondent

Final Decision : Disposed Off

Judgement

A.Ramalingeswara Rao, J—This writ petition was filed by 25 private management schools challenging the action of the respondent in asking them to obtain a trade licence for running schools under Section 521 (1) (e) of the Greater Hyderabad Municipal Corporation Act, 1955.

2. The petitioners earlier approached this Court by filing W.P.No.5721 of 2012 and this Court by order dated 02.03.2012 disposed of the said writ petition giving liberty to the petitioners to submit explanation and the Municipal Corporation was directed to pass appropriate orders in accordance with law. Now, pursuant to the said order of this Court, when an order was passed on 30.06.2012, the present writ petition was filed.

3. The order impugned in the writ petition reads as follows:

"After careful examination of the explanation submitted by the Private School Managements and unaided schools managements, it is not in accordance with law, and does not hold. The Warangal Municipal Corporation issued the notices to the private schools under Section 521 of the Greater Hyderabad Municipal

Corporation Act, 1955, and provisions laid down under Section 521 (1) (e) of the said Act envisages that "any trade or operation which in the opinion of the Commissioner is dangerous to life, health or property or likely to create a nuisance either from its nature, or by reason of manner in which, or a condition under which the same is or is proposed to be carried on". The Schools which are run by the Managements are not providing any sufficient amenities to the students for their necessary need. Their operation in running business for the schools is dangerous to the life and health of the students which required a trade licence. Their operation in running the schools is purely on business lines and dangerous to the lives of the students and their health, as such the Warangal Municipal Corporation has notified the schools in the Gazette for trade licence.

Explanation offered to the notices issued by the Warangal Municipal Corporation are not satisfactory and all the grounds referred in the explanation are not satisfactory and it is against the provisions laid down under Section 521 (1) (e) of the Greater Hyderabad Municipal Corporation Act, 1955."

4. It is surprising that the respondent came to the conclusion that running of the schools is dangerous to the life and health of the students and it requires a trade licence. The insistence of trade licence under Section 521 (1) (e) of the Greater Hyderabad Municipal Corporation Act, 1955 was considered in several judgments and even in respect of retail liquor business, this Court in *Y.Venkateswar Rao and others v. Prohibition and Excise Superintendent and another* (2006 (1) ALD) 445 considered the entire case law and came to the conclusion that running of a retail liquor business, no service is rendered by the Municipality and there is no need for obtaining a trade licence. The decision of the Supreme Court in *A.P. Bankers and Pawn Brokers Association v. Municipal Corporation of Hyderabad* (2001 (2) SCR 340) was also considered in the said decision.

5. In view of the ratio laid down in the aforesaid decisions, the running of a school does not come within the activities contained in the Schedule-P of the H.M.C. Act and as such the respondent cannot insist for a trade licence.

6. The Writ Petition is accordingly allowed. No order as to costs. Miscellaneous petitions, if any, pending shall stand closed.