
(2002) 06 AP CK 0111

In the Andhra Pradesh High Court

Case No : Writ Appeal No. 1234 of 1997

Punukollu Ramachandra Rao

APPELLANT

Vs

Government of A.P., Municipal Administration and Urban
Development Dept. and Others

RESPONDENT

Date of Decision : 03-06-2002

Acts Referred:

Andhra Pradesh Municipalities (Regulation of Receipts) and Expenditure Rules, 1968 —
Rule 12

Citation : (2002) 6 ALT 222

Hon'ble Judges : S.R. Nayak, J; Dalava Subramanyam, J

Bench : Division Bench

Advocate : C.V. Nagarjuna Reddy, for the Appellant; E. Sambasiva Pratap, for the Respondent

Final Decision : Dismissed

Judgement

S.R. Nayak, J.—The writ petitioners are the appellants. The filed the writ petition assailing the validity of the final notice issued by Gudivada Municipality, Gudivada dated 4-1-1997 informing the petitioners that their request to renew the lease on enhanced rent at 18% only has been rejected and calling upon the petitioners to send their consent letters for enhanced rent at the rate of 33 1/3% on the existing rent. The rejection of the request of the petitioners was assailed mainly on the ground of discrimination. The plea of discrimination is founded on the fact that on a previous occasion, the Special Officer of the Municipality had renewed the lease in respect of shop No. 1 at the enhanced rent at 15% and, therefore, the petitioners should have been granted renewal of lease at the same rate. This contention of the petitioners was not found favour with the learned Single Judge. The learned Single Judge held—

"The complaint of discrimination made by the petitioners, in my considered opinion, is misconceived. Mere fact that the Municipality made an exception in one case and recommended to the Government as a special case for grant of

lease on increased rent of 15% only, instead of 33 1/3% cannot form any basis and give rise to a cause for assertion of any right by the existing lessees. The Court is required to take notice that the decision in the previous case was taken by one particular individual viz., the Special Officer in purported exercise of the power conferred by the Council. It is an individual's decision taken by the Municipal Council. Precisely for such reasons, the Court in many cases insisted that the management of the local bodies should always be in the hands of elected representatives. It is not known under what circumstances, the then Special Officer recommended the case of one individual lessee for a different treatment and for what reasons the Government agreed with the recommendation of the Special Officer and directed renewal of lease on condition of 15% enhancement of rent instead of 33 1/3%. The Court would have been in a position to examine the validity of the decision of the Government, if the same was questioned. It cannot be presumed that the Government's decision was legal and intra vires. At any rate, such administrative decisions cannot be treated as precedents similar to judicial decision. Such administrative decision, itself, cannot confer an enforceable right upon the persons claiming similar relief. It cannot form basis for issuance of a writ of Mandamus by this Court in exercise of its judicial review jurisdiction. The Court cannot issue such Mandamus compelling the authorities to act in a particular manner in the absence of an enforceable right. Therefore, the right question to be asked is as to whether the petitioners before this Court are entitled to the relief asked for, instead of granting relief on the basis of an earlier administrative/executive order in similar case."

2. The view taken by the learned Single Judge has the support of the ratio of the pronouncements of the Apex Court in Chandigarh Administration and another Vs. Jagjit Singh and another, ; Secretary, Jaipur Development Authority, Jaipur Vs. Daulat Mal Jain and Others, and State of Haryana and Others Vs. Ram Kumar Mann, . The very grounds, which were urged before the learned Single Judge were reiterated before us also.

3. The power granted to the Municipality under Rule 12 of Regulation of Receipts and Expenditure Rules, 1968 (for short, the Rules), to renew the lease should be brought to bear on facts and circumstances of each case, and the exercise of that power cannot be standardized. If it is standardized, then, it will lose the essence of discretion and it will become a mandatory rule. Looking from that angle, simply because the Special Officer, in a given case, had exercised the discretionary power under Rule 12 of the Rules, and in his wisdom and discretion and having regard to the facts and circumstances of that case thought it fit to renew the lease in respect of shop No. 1 at the enhanced rent of 15%, the petitioners cannot claim, as a matter of right or course, that the leases granted to them should also be renewed at the same rate. Further, we do not find any factor or circumstances, which could vitiate the demand made by the Municipality in the impugned notice. No substantive ground is made out by the petitioners to interfere with the impugned order of the learned Single Judge.

4. The Writ Appeal fails and it is accordingly dismissed with no order as to costs.