
(2017) 04 RAJ CK 0199
In the Rajasthan High Court
Case No : 17763 of 2016

Ravindra Singh & ors.

APPELLANT

Vs

State of Rajasthan & ors.

RESPONDENT

Date of Decision : 06-04-2017

Acts Referred:

[Constitution of India](#), [Article 226](#) -
Power of High Courts to Issue certain writs

Citation : (2017) 04 RAJ CK 0199

Hon'ble Judges : M.N. Bhandari

Bench : SINGLE BENCH

Advocate : Indresh Sharma, M.S. Raghav, Rohit Bhardwaj, Naina Saraf, Shweta, Amit Tanwani, Saurabh Jain

Judgement

1. By these writ petitions, the petitioners are basically seeking implementation of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 (for short "the Act of 2014"). Learned counsel submits that despite specific provision for constitution of Town Vending Committees and even to identify vending area, nothing has been done by the respondents. On constitution of the Town Vending Committee, survey needs to be made to identify the vending area followed by issuance of vending cards to the petitioners and similarly situated persons. The respondents were under an obligation to comply the mandate of the Act of 2014 but it is not implemented though the Rules for its implementation have also been made. In view of above, appropriate direction may be given for constitution of Town Vending Committee followed by survey and identification of vending area and, lastly, to issue vending cards. Till the aforesaid process is completed, the petitioners may not be disturbed in view of mandate of Section 3(3) of the Act of 2014. In absence of implementation of the Act of 2014, the petitioners are being harassed and, at times, displaced though involved in vending for last many years. Their livelihood has been affected due to malpractice of the state authorities, which include, the police and officers of the municipal corporation. They have no intention to implement the Act of 2014,

thereby, misusing their position. The petitioners cannot run their business unless wishes of the officers are satisfied. They remain on mercy of the officers hence left with no option but to prefer these writ petitions. It is despite a fact that they are paying due license fee to the municipal corporation.

2. Learned counsel for the respondents submit that Town Vending Committees for Jaipur city have already been constituted. It was after the direction of this Court in the Writ Petition No.5155/2016. The first part of the Act of 2014 has already been implemented.

3. It is also informed that Rules have also been framed and notified on 15th February, 2016 thus implementation of the Act of 2014 and the Rules made thereunder would be undertaken. This Court has already given time frame for it while disposing the writ petition No.5155/2016 wherein even the period has been specified for issuance of vending cards. In compliance to the judgment aforesaid, survey of vending area would be made by the committee and municipal corporation followed by issuance of vending cards after due verification. The respondents would complete the exercise within the time frame given by this Court.

4. The allegation of malpractice or harassment has been denied. It is submitted that petitioners are carrying vending at the places prohibited under the order the Court or not in a manner required so as to maintain cleanliness and avoid traffic hazard. They were asked to regulate their business in such a manner which may obstruct public traffic and, at the same time, should not be at the place which is prohibited under the order of the Court. It is, however, submitted that the direction by this Court would be complied in consonance to the Act of 2014 and Rules of 2016.

5. I have considered rival submissions made by learned counsel for the parties and perused the record.

6. The Government of India came out with the Act of 2014 to regulate street vending and, at the same time, to protect livelihood of those who are engaged therein. Prior to the aforesaid, the State Government had enacted an Act in the year 2011, however, compliance of the provisions of those Acts have not been made till date. The respondents were under an obligation to constitute Town Vending Committees so that in follow up, vending areas are identified and after identifying those areas, vending cards are issued. This Court in the Writ Petition No.5155/2016 called upon the Collector, Jaipur to find out as to why Town Vending Committees have not been constituted. The Collector, Jaipur appeared before the Court and produced a copy of the order constituting Town Vending Committees thus first part was complied with for Jaipur City. This Court thereupon gave direction to identify the vending areas within a period of four months from the date of the order and a period of one month has already passed thereupon. After identifying the vending areas, vending cards are to be issued within a period of two months.

7. In the light of the aforesaid, no further direction is required to be given, however, allegations have been made by the petitioners regarding harassment and malpractice thus it would be necessary to direct the respondents to manage their affairs in accordance to Section 3(3) of the Act of 2014 and other provisions apart from the Rules of 2016. As per sub-section 3 of Section 3 of the Act of 2014, no street vendor to be evicted or relocated till the survey specified under sub-section (1) is completed. The respondents would be expected to adhere to the provisions of law, however, it is always subject to the direction of this Court. For illustration, this Court has issued direction not to allow vending on a circle near Ganesh Temple where it affects the traffic. Thus, while complying the mandate of the Act of 2014, the aforesaid fact would be taken into consideration and, in any case, the Town Vending Committees and municipal corporation would not keep vending areas at the places, which not may effect traffic or cause any other difficulty. Therein, they would keep in mind other legislation which may not hit while identifying the vending areas.

8. The exercise aforesaid would be completed as per the direction of this Court given in the SB Civil Writ Petition No.5155/2016. It is, however, made clear that if a vending area is notified then after completion of that exercise, vending should not be permitted in non-vending area. In case it is permitted or no action is taken to stop it, the officer concerned of that area would be made responsible. Accordingly, if any area is used for vending other than notified then it should be taken adverse to the officer concerned and to be recorded in their APAR.

9. The direction aforesaid has been given for the reason that despite identification of the vending areas and even subsequent declaration of non-vending areas, if vending is permitted then it would effect traffic resulting in accidents and, otherwise, to obstruct smooth flow of traffic. It becomes a threat to the cleanliness of the city also thus all these facts would be taken into consideration. In case of any compliant for using any area than notified for vending, the directions given above would be followed. The action against the officer concerned would be taken, which would include the officer of the Municipal Corporation, Jaipur and the police officer of the concern area.

10. Till the directions aforesaid are completed, the existing vendors would not be disturbed in the light of sub-section 3 of Section 3 of the Act of 2014, however, directions would not apply to the area which are otherwise covered by any other judgment of this Court directing the Municipal Corporation not to allow vending in that area.

11. To see the compliance of the judgment, let these disposed of writ petition be listed on 10th July, 2017 at the first instance to find as to whether vending areas have been identified after due survey. The writ petition would be further listed thereupon to find out as to whether vending cards have been issued to regulate business. It is also to see that after identification of vending areas, anyone is permitted to carry on business in non-vending zone and, at the same time, no traffic hazard is created as an outcome of vending zone and cleanliness is

maintained. If any vendor is found not maintaining cleanliness of the area by himself or through the purchaser, he may be served with the notice for cancellation of vending card, as per law. With the aforesaid, these writ petitions are disposed of. Writ Petitions Disposed of.