
(1986) 06 KAR CK 0032
In the Karnataka High Court
Case No : Writ Petition No. 1703 of 1986

S. Abdul Rasheed

APPELLANT

Vs

Town Municipal Council, Doddaballapur and Another

RESPONDENT

Date of Decision : 04-06-1986

Acts Referred:

Citation : AIR 1987 Kar 17

Hon'ble Judges : M. Chandrakantaraj URS, J

Bench : Single Bench

Advocate : B.G. Sridharan, for the Appellant; M.R. Narasimha Murthy and B.T. Somayaji, Govt. Pleader, for the Respondent

Judgement

1. The petitioner is a resident of Doddaballapur Town in Bangalore District.

In this petition, he has prayed for issue of a writ of mandamus directing the respondent Doddaballapur Town Municipal Council to provide a slaughter house or in the alternative, permit them to use his own premises for the said purpose and also direct the Municipal Council to grant license to the petitioner to open a beef-mutton stall. He has alleged that a number of them made an application in the year 1979 seeking permission to slaughter, in a place built by one Abdul Ajij and use it for sale of meat. Pursuant to that request, at a meeting held on 13-12-1979 the Town Municipal Council resolved to grant that license. That permission was granted for sale of beef-meat. There afterwards, there has been no fresh application till 25-10-1981. On 25-10-1981, they made an application with a request similar to the one made earlier in 1979. Nothing obviously has come out of the application given in 1981. The petitioner and others continued to vend beef for themselves and others as they were doing before, after the grant of permission in 1979. This has been objected to by the other residents of Doddaballapur pressing the Municipal Council as well as the Police for action. It is in that circumstance that the petitioner feeling harassed approached this Court for the mandamus to which I have made reference earlier.

2. The Municipal Council entered appearance and filed its statement of objections. It admits that providing a slaughter house and a place to vend mutton or other meat, is an obligatory function of the Municipality. The Municipal Council also admits that it had not provided either a slaughter house or a mutton market place in Doddaballapur Town. The Municipal Council also contends that the Writ Petition is not maintainable because the petitioner has not made a written demand for erecting a slaughter house. However, there is a kind of admission that if this Court were to direct the performance of the obligatory function in this petition, it will take two years for it to provide a slaughter house and a mutton market as the same involves considerable expenditure.

3. It is true that the petitioner or anyone else in the Town of Doddaballapur has not made a written demand for providing a slaughter house and a mutton market. The normal rule for issue of a writ of mandamus is that all authorities that are required to perform statutory duties may be compelled to perform those duties if they fail to perform that duty only after a demand for it has not met with success. This self-imposed restriction by the courts is not an empty formality. The insistence of a written demand before issue of writ of mandamus is to avoid frivolous petitions and also to assist the concerned authority to do what it is required to do, so that he may himself perform what the court ultimately will have to compel him to perform. The rule is one of convenience, in public interest and the courts will be reluctant to relax the rule except under exceptional circumstances. When a case is made out that time factor is an important element on account of the urgency of the matter.

4. This Court also will not lose sight of the fact that the petitioners from 1979 have been indifferent in regard to enforcement of their rights.

5. Having regard to all these circumstances, this petition is rejected with the observation that the petitioner and others, if they are keen, may make a written demand to the Municipality to provide them with a slaughter house and a mutton market, giving reasonable time to the Municipality to erect the necessary buildings in accordance with requirements of law and hygiene and if within that reasonable time, the Municipality has not complied with the request or demand, they may approach this Court for relief.

6. Petition dismissed.