

(2013) 06 KAR CK 0151

In the Karnataka High Court

Case No : Writ Petition No. 37837 of 2012 (LB-RES-PIL)

Sri M.B. Ayappa

APPELLANT

Vs

The President Town Panchayat

RESPONDENT

Date of Decision : 06-06-2013

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Karnataka Municipalities Act, 1964 — Section 244

Citation : (2013) 06 KAR CK 0151

Hon'ble Judges : D.H. Waghela, C.J.;B.V. Nagarathna, J

Bench : Division Bench

Advocate : Harish Ganapathy, for the Appellant; Subramanya R., for M/s. Ashok Haranahalli Associates, for the Respondent

Final Decision : Dismissed

Judgement

D.H. Waghela, C.J.—Invoking Articles 226 and 227 of the Constitution, the petitioner has approached this Court as a social worker, working as President of a social organization named "Jaya Karnataka", so as to question the giving on lease of shops in the fish, chicken and mutton market by the Town Panchayat of Virajpet. The so called representation dated 28.03.2012 preceding the petition states:

Subject to above, you have continued fish, meat and other shops auction sale every year until now in your panchayat. But this year without any auction sale you decided to give the shop to the existing old bidders. Therefore, we request you to conduct the auction sale by inviting Tenders as you conducting every year. Otherwise it is for your kind notice that with the help of the publics and other organizations we will be protesting hardly against you.

On the basis of the factual averment that no auction sale has taken place for the year 2012-13, the petitioner has prayed for a writ of mandamus directing the respondent to invite tenders for the sale of fish, mutton and chicken market in accordance with Section 244 of the Karnataka Municipalities Act, 1964, on the

basis of the representation given by the petitioner on 28.03.2012.

2. By filing statement of objections of the respondent, with affidavit of the Chief Officer of Virajpet Town Panchayat, it is stated that the Panchayat has been conducting auction of the fish and meat market area for grant of licence at the end of each financial year. The respondent has conducted auction for the year 2009-10, 2010-11 and for the year 2011-12. Thereafter, the Fisheries Department in the State Government has decided to take up the construction of wholesale high-tech fish market at an estimated cost of 198,79 lakhs by demolishing the existing old fish and meat market. The project has been sanctioned by order dated 24.09.2012 and in view of that order, on 07.03.2012, the respondent-Panchayat has resolved to continue the bidders, who were successful for the year 2011-12, by collecting additional 2% of the bid amount as the construction work was proposed to be started in the year 2012-13 itself. By now, the erstwhile market building has been demolished on 29.01.2013. It is categorically stated by the respondent that the present petition alleging to be in public interest is not a pro bono public interest petition as the petitioner appears to have some differences with the existing occupants and hence, the present petition is brought before this Court in the guise of public interest. That apart, the petition is filed not against Panchayat, but against the President of the Town Panchayat. In view of the above pleadings of the parties, the only issue sought to be agitated by learned counsel for the petitioner is that the continuation of the shops after March 2012, by collecting additional 2% over the licence fee previously paid was illegal and not in conformity with the provisions of Section 244 of the Karnataka Municipalities Act, 1964. Learned counsel for the petitioner has failed to answer any of the queries about credentials of the petitioner and it prima facie appears that the petitioner does not have any background of serving any public cause and the present petition is pursued with some ulterior motives, particularly when the licences as well as the shops are no more and the market is admittedly closed upon demolition of the building on 29.01.2013. In these facts, the petition is not required to be entertained for finding out any technical fault, even if there may be one in the conduct of public affairs by the respondent. Therefore, the petition is dismissed.