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IN THE HIGH COURT OF JUDICATURE AT JABALPUR

WRIT PETITION /5787/ NO. 2005

(PUBLIC INTEREST LITIGATION)

PETITIONERS

7/24/05

Filed on 7/21/05
by Shri. Girish Jain
Advocate

R. to A.R.

1. Suresh Chandra Jain,
S/o Shri Guljari Jain,
Aged about 72 years,
R/o 748, Sarafa Ward,
Jabalpur M.P.
2. Sunil Jain
S/o Late S. Jain,
Aged about 42 years,
R/o 139, Shivnagar,
Jabalpur M.P.
3. Ashok Jain
S/o Shri B.L. Jain
Aged about 46 years,
R/o Vidhyasagar Complex,
Tilak bhoomi ki talaiya,
Jabalpur M.P.

VERSUS

RESPONDENTS :

1. State of M.P.
Through Secretary,
Department of Health & Family
Welfare Secretariat, Bhopal
2. Secretary
Department of Home Affairs
Vallabh Bhawan Bhopal
3. Secretary
Urban Administration,
Vallabh Bhawan,
Bhopal
4. Collector,
Jabalpur
5. Commissioner
Municipal Corporation,
Jabalpur



WRIT PETITION UNDER ARTICLES 226/227 OF THE
CONSTITUTION OF INDIA

1. Particulars of the petitioners :

As mentioned in the cause title

2. Particulars of the respondents :

As mentioned in the cause title.

3. Particulars of the order against which the petition is made :

The petitioners are not calling any question any particular order or specific order. This petition has been preferred in public interest seeking indulgence of this Hon'ble Court under the Municipal Corporation Act wherein the respondents have failed to take proper action against the persons who are involved in business of animal flesh intended for human food illegally without any permission/license all over the Jabalpur and State of M.P. The respondents have also failed to control the sale of eggs, meat, and chicken in open space.

Subject matter in brief:

That the petitioners are the citizen of India and respectfully resident of Jabalpur. The petitioner No.1 is involved in all social activities and devoted for upliftment of down trodden and giving at once steps towards vegetarian movement. The similarly petitioner No.2 and 3 in are resident of Jabalpur city and also giving strength to Sakahar Movement. The Municipal Corporation and Municipalities Act are applicable all over M.P., and under these Act there is complete ban in sale of animal flesh, chicken, meat and so eggs in open space/open market. The respondents have failed to perform their duties as the people are doing business of animal flash in the part of the city and in open places therefore this petition in the public interest to enforce the duties and laws.

Delay in filing the petition if any:

There is no delay in filing the petition.

Facts of the case





HIGH COURT OF MADHYA PRADESH

ORDER SHEET

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W.P. No.15787/05

30/01/2008

The petitioners as pro bono publico have preferred this writ petition for issue of command to the respondents to cause an inquiry relating to the matter of sale of animal flesh, chicken etc. in open market in open places which are within the vicinity of the market and further to issue appropriate directions to the respondents to take steps against the persons who violate the provisions of the Act and the Rules.

It is submitted by Mr. Greeshm Jain, learned counsel for the petitioners that the State of M.P. has framed two enactments, namely Municipality Act, 1961 and Municipal Corporation Act, 1956. He has referred us to sections 262 to 268 of the Municipality Act and sections 253 to 259 of the Municipal Corporation Act. The learned counsel has also referred us to the Municipalities Inspection of Slaughter House and Sale of Flesh (Licensing) Bye-laws. The learned counsel has emphatically put forth that Bye-law 21 clearly stipulates that the licence shall be granted under the Bye-laws subject to the conditions enumerated therein. It is proponed by him that the said conditions are not being fulfilled. The authorities are granting licence without caring for the conditions that have been prescribed under the said Rules and Bye-laws.

Mr. Deepak Awasthi, learned Govt. Advocate for the State and Mr. Sharad Verma, learned counsel appearing for the Municipal Corporation, Jabalpur fairly stated that they have no hesitation to say that they are bound by the provisions of the Rules the Bye-laws. It is obligatory on the part of the Municipal Corporation to follow the prescription

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norms/guidelines enshrined under the provisions of the Act and that of the the Bye-laws framed therein.

In view of the aforesaid, we direct the respondents as under:

i) *The respondents shall not grant any licence to any one who does not meet the conditions-precedent provided under the Acts or Bye-laws.*

ii) *If any licensee violates the conditions enumerated in the licence which are prescribed under the Acts and the Bye-laws, steps shall be taken under the Acts and Bye-laws to book them and proceed against them.*

iii) *The Commissioner, Municipal Corporation, Jabalpur, in co-ordination with the Collector, Jabalpur, shall see to it that no licensee deviates from the Acts and the Bye-laws and cause any kind of contravention of the terms of licence or the Bye-laws as a result of which the public at large, suffer.*

iv) *The Commissioner, Municipal Corporation, Jabalpur shall issue necessary directions to the health inspectors and other concerned officers to see that the provisions contained in the Acts and the bye-laws framed therein, are duly respected and resident in the*



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city of Jabalpur, are not compelled to face any difficulty.

After issuing such directions, ordinarily, we would have parted with the case, but, we are really failed that despite the provisions in the Act and the bye-laws which prescribe certain conditions-precedent the authorities are unable to control the licensees, as a result of which violation takes place and grieved people are compelled to invoke inherent jurisdiction of this Court by filing a public interest litigation. The statutory authority must keep themselves abreast to the law and take action. Inaction on this score, not only corrodes the path of administration but also ushers in a situation which entails in health hazards. We are sure, the authorities shall keep the aforesaid concept in view and act as per directions issued above.

The writ petition is allowed to the extent indicated above. There shall be no order as to costs.

C.c. as per rules.

(Signature)
(Dipak Misra)
Judge

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(Prakash Shrivastava)
Judge

ac.

