

B.R. Jagadish and ors. Vs. State of Karnataka Represented by Its Chief Secretary and ors.

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Court : Karnataka

Decided On : Aug-17-2005

Reported in : AIR2005Kant418; ILR2005KAR4510

Judge : H.G. Ramesh, J.

Appeal No. : Writ Petition No. 24325/2001

Appellant : B.R. Jagadish and ors.

Respondent : State of Karnataka Represented by Its Chief Secretary and ors.

Advocate for Def. : Satish R. Girji, HCGP, Adv.

Advocate for Pet/Ap. : Amruthesh N.P Adv.

Judgement :

ORDER

H.G. Ramesh, J.

1. In this writ petition, the petitioners who claim to be self employed Tourist Photographers have sought for a writ of mandamus directing the respondents not to collect licence fee from them for their carrying on the business of photography in public/tourist places like Vidhana Soudha, Cubbon Park, Lalbagh etc.

2. Facts in brief: It is stated in the petition that the petitioners are professional tourist photographers who are engaged in the business of taking photos of tourists visiting Vidhana Soudha, Cubbon Park, Lalbagh and other historical places in and around Bangalore. According to them, respondents 2 and 4 insisting them to obtain licence and to pay an annual tax of Rs. 2,000/-. To prove the same, they have produced Annexures-A, B and C which are the notices issued by the Deputy Director of Horticulture, Cubbon Park, Bangalore (R4). Being aggrieved by the said action, the petitioners have presented this writ petition seeking the aforesaid relief.

3. I have heard learned counsel appearing for the parties.

4. The sole contention urged by the learned counsel for the petitioners is that the Horticulture Department represented by respondents 2 and 4 is not legally empowered to insist for licence or to demand an annual tax of Rs. 2,000/- from the petitioners to carry on the business of taking photos of tourists in public places like Cubbon Park, Lalbagh, etc.

5. As could be seen from the notices issued by Respondent No. 4, he has insisted the professional tourist photographers to obtain licence and to pay an annual tax of Rs. 2,000/-. I asked the learned Government pleader as to the authority of Respondents 2 and 4 representing the Horticulture Department to issue notices to the photographers demanding payment of tax and to obtain licence. He was unable to point out any legal provision or rule or order empowering respondents 2 and 4 to issue licence or to collect tax or fee. In my opinion, in the absence of any legal empowerment, respondents 2 and 4 cannot insist for licence or demand tax from professional tourist photographers. Their action is without authority of law. Accordingly, respondents 2 and 4 are directed not to insist for licence or demand or collect tax or licence fee from the petitioners or other similarly placed professional tourist photographers till they (R2 and R4) are legally empowered in that behalf.

The writ petition accordingly stands disposed of. However, there will be no order as to costs.

