

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 02.03.2015

CORAM:

THE HONOURABLE MR. JUSTICE SATISH K. AGNIHOTRI
AND
THE HONOURABLE MR. JUSTICE M. VENUGOPAL

W.P. No. 5369 of 2015 and M.P. No.1 of 2015

Dr. K. Rajeshkumar

Petitioner

Vs.

1 The Commissioner
Corporation of Chennai,
Chennai-3

2 The Regional Deputy Commissioner - Central,
Corporation of Chennai,
Chennai.3.

3 The Executive Engineer
Zone -VI,
Corporation of Chennai,
Chennai.3.

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of Certiorari calling for the records pursuant to the notice ZO6/E3/1163/2015 issued by the Corporation of Chennai, dated 23.2.2015 and quash the same.

For petitioners Mr. S. Thiruvengadam
For respondents Mr. G. Anantharangan

ORDER

(Order of the Court was made by SATISH K. AGNIHOTRI, J.)

Challenge in this writ petition is to the notice dated 23.2.2015 purported to be issued under the provisions of Section 222 read with 220 of Chennai City Municipal Corporation Act, 1919 (for short 'The Act').

2. Learned counsel appearing for the petitioner submits that before issuing notice under Section 222 of the Act, the Commissioner/Corporation is required to issue notice under Section 220 of the Act. In the case on hand, no notice has been issued

affording an opportunity of hearing to the petitioner to explain the alleged obstruction or encroachment on the public street.

3. Mr. G. Anantharangan, learned counsel, who accepts notice on behalf of the respondents, submits that admittedly, no notice under Section 220 of the Act has been issued as the impugned order itself is under both the provisions.

4. We are unable to understand as to how a notice before taking step for removal of encroachment under Section 220 of the Act and the notice to remove the same under Section 222 of the Act can go together. The purpose of a show cause notice is different from the final order passed for removal of the encroachment.

5. In such view of the matter, without going into the merits of the case, we hold that the impugned notice be treated as a show cause notice and the petitioner is at liberty to file an explanation/representation to the said notice within a period of three weeks from today. The authorities shall pass appropriate orders on consideration of the explanation/representation, in accordance with law and on its own merits, within a period of one week thereafter.

6. This writ petition is disposed of with the above direction. Consequently, M.P. No. 1 of 2015 is closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ra
To

- 1 The Commissioner
Corporation of Chennai,
Chennai-3
- 2 The Regional Deputy Commissioner - Central,
Corporation of Chennai,
Chennai.3.
- 3 The Executive Engineer
Zone -VI,
Corporation of Chennai,
Chennai.3.

+1 cc to Mr.G.Anantharangan, Advocate Sr.11212

+ 1 cc to Mr.s. Thiruvengadam, Advocate 11306

W.P. No.5369 of 2015

AK(CO)

Eu 12.03.15