

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

Writ Petition No.38125 of 2015

Dated 24.11.2015

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Between:

M.Kishan

... Petitioner

and

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The State of Telangana

rep. by its Prl.Secretary

Municipal Administration Dept.,

Hyderabad and 3 others.

...Respondents

Counsel for the petitioner: Mr.K..Venumadhav

Counsel for respondent No.1: AGP for Municipal Administration

Counsel for respondent Nos.2 & 3: None appeared

Counsel for respondent No.4: Mr.P.Hemachandra

The Court made the following:

Order:

This Writ Petition is filed for a Mandamus to set aside the proceeding in Lr.Roc.No.G1/MCM/1, 2/2014-15, dated 11.02.2015, of respondent No.2- Municipality whereby it has granted permission to respondent No.4 for erection of a tower, for providing Infotel Broadband Service, on the site belonging to respondent No.3.

The main ground on which the petitioner has assailed grant of the above mentioned permission by respondent No.2 is that besides the fact that the site is located in a crowded and narrow residential locality, the location falls within the prohibited radius of 100 meters from a school premises as per G.O.Ms.No.380 Municipal Administration & Urban Development, dated 01.08.2013.

Mr.P.Hemachandra, learned Counsel for respondent No.4, submitted that after permission was granted as per G.O.Ms.No.380, dated 01-08-2013, the Government has come out with fresh GO viz., G.O.Ms.No.96 Municipal Administration and Urban Development (M1) Department, dated 05-08-2015. He has further submitted that the said GO has deleted Clause E (vii) (c) of G.O.Ms.No.380, dated 01.08.2013, which prohibited erection of IT towers within the radius of 100 meters from the boundary of the school premises, hospital, heritage buildings etc. The learned Counsel for the petitioner has not disputed this submission.

Though, when the impugned permission was granted, there was prohibition for erection of an IT tower within the radius of 100 meters of the boundary of the school premises, such prohibition ceases to exist from 05-08-2015. Therefore, though, technically, respondent No.2 has violated G.O.Ms.No.380, dated 01-08-2013, by granting permission to respondent No.4 within 100 meters radius of a school building, no purpose will be served by setting aside the said order on this ground because in view of removal of such prohibition by G.O.Ms.No.96, dated 05-08-2015, respondent No.2 will be left with no choice other than granting a fresh permission, if respondent No.4 applies therefor afresh. The further fact that respondent No.4 has already commenced the process of erection of the IT tower also dissuades this Court from intervening in the matter.

In view of the above reasons, the Writ Petition is dismissed.

As a sequel to dismissal of the Writ Petition, WPMP.No.49070 of 2015, filed by the petitioner for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

Dt: 24th November, 2015

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