

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No. 17016 OF 2015

Date :15.6.2015

Between :

Y Subramanyam S/o late Y Siddaiah

R/o D No. 6/973-A, Nunevaripalle, Rajampet mandal

YSR Kadapa district

Petitioner

And

The State of A P

Rep by its Principal Secretary, Municipal Admn & Urban Devp,

Secretariat, Hyderabad and others.

respondents

The Court made the following:

HONOURABLE SRI JUSTICE P. NAVEEN RAO

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ORAL ORDER:

In this writ petition, petitioner challenges proceedings dated 8.6.2015 issued by the second respondent by which the building permission granted to the petitioner earlier on 18.3.2015 was cancelled on the allegation that he has given a wrong representation stating that there was a hut and two documents bearing No. 3339 /57 dated 14.12.1957 and 1430/94 dated 11.10.1994 and electricity bills and house tax bills are not tallying to the house being constructed.

2. Learned counsel for petitioner submits that when petitioner was served with show cause notice dated 29.5.2015, he has submitted a detailed explanation but without considering the said explanation, impugned orders are passed and in fact petitioner has already constructed the building before show cause notice was served and respondent authorities are threatening to demolish the structures made.

3. As seen from the order dated 8.6.2015, wrong declaration given by the petitioner is basis for canceling the earlier approval granted.

4. The show cause notice dated 29.5.2015 refers to alleged wrong information given by the petitioner to Nagar Panchayat, but no details were furnished. The action initiated by the respondent Nagar Panchayat is in accordance with provision contained in Section 344 of the Municipalities Act. When authorities are exercising the statutory powers vested in them, it is mandatory that they should observe the basic principles of affording reasonable opportunity; supplying all the relevant documents on which reliance is placed to take adverse decision and if

necessary by affording personal hearing, appropriate orders should be passed. In the instant case, all these parameters are not adhered to.

5. Though learned standing counsel pointed out that against the order under Section 344 (6) an appeal shall lie under Section 345 (1) (C), but, in view of the fact that petitioner was denied reasonable opportunity at the initial stage, the order vitiates ex-facie on that ground and merely because appeal is available, petitioner cannot be relegated to the remedy of filing such appeal at this stage.

6. Having regard to the same, writ petition is disposed of directing the Commissioner, Nagara Panchayat, Rajampet/second respondent to treat the endorsement dated 8.6.2015 as show cause notice, afford further opportunity of hearing to the petitioner and pass appropriate orders as warranted under law. Petitioner shall file all the relevant documents along with additional explanation within a period of two weeks from today and on receipt of the same, Commissioner shall notify a date of personal hearing, hold personal hearing and pass appropriate orders. If the petitioner does not attend to personal hearing on the date fixed, does not cooperate or fails to submit additional explanation, it is open to the second respondent to pass appropriate orders as warranted by law based on the material available on record. Until a decision is taken as ordered above, petitioner shall not undertake any further construction and second respondent shall not take any coercive steps against the petitioner nor demolish the structures already raised. No costs. Having regard to the same, all pending miscellaneous petitions are closed.

P NAVEEN RAO,J

DATE: 15.6.2015

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HONOURABLE SRI JUSTICE P. NAVEEN RAO

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