

HONOURABLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No. 7424 OF 2009

DATED 16TH APRIL, 2015.

BETWEEN

Mr. Faisal Bin Saleh

...Petitioner

And

Greater Hyderabad Municipal Corporation,

Rkep. By Asst.City Planner, TP Section,

Circle-5, Hyderabad and anr.

...Respondents.

HONOURABLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No. 7424 OF 2009

ORDER:

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This Writ Petition filed under Article 226 of the Constitution of India challenges the proceedings of the first respondent-Municipal Corporation issued in notice

Lr.No.121/ACP/C5/GHMC/2009, dated 17.03.2009. By virtue of the said proceedings, the Assistant City Planner, Circle-V, Greater Hyderabad Municipal Corporation, directed the petitioner herein to remove the front elevation made at the site under reference and restore it to its original state within three days from the date of receipt of the said notice.

This Court, while issuing Rule Nisi on 09.04.2009, passed interim order in W.P.M.P.No.9754 of 2009 directing the respondents not to take any further action pursuant to the notice dated 17.03.2009. This Court also directed the petitioner herein not to take up any further work either cladding or any other construction work on the subject building, pending further orders.

Responding to the Rule Nisi issued by this Court, a counter affidavit is filed on behalf of the second respondent denying the averments made in the affidavit filed in support of the Writ petition, and in the direction of justifying the action initiated by them.

In the present Writ Petition, it is the case of the petitioner herein that he is not aware of the subject building being included in the historical buildings. It is stated that the petitioner herein made a request to the first respondent to furnish a copy of G.O.Ms.No.4 M.A., dated 02.01.2003. It is also pleaded in the affidavit that the petitioner herein submitted a reply on 19.03.2009 to the notice dated 17.03.2009 to the respondent-Municipal Corporation. The entire material made available before this Court shows that no show cause notice was issued to the petitioner before issuing the impugned order. In fact no counter affidavit is filed by the first respondent opposing the Writ Petition.

A perusal of the explanation submitted by the petitioner herein to the notice dated 17.03.2009, which is filed along with the Writ Petition, shows that the petitioner categorically denied any construction as alleged in the impugned notice. The petitioner herein also stated in the said explanation that he did not do anything changing the shape of the original building. In the said explanation,

the petitioner also sought for personal hearing before taking any further action.

In the circumstances, this Court deems it appropriate to direct the first respondent to consider the explanation said to have been submitted by the petitioner herein on 17.03.2009 in response to the impugned notice dated 17.03.2009 before proceeding further in the matter.

For the aforesaid reason, the present Writ Petition is disposed of directing the respondents herein to consider the explanation submitted by the petitioner dated 17.03.2009 and after affording an opportunity of being heard to the petitioner, pass appropriate orders by taking into consideration the contents of the said explanation. It is also open to the petitioner to submit any further explanation/representation, if so chooses, within a period of two weeks from the date of receipt of a copy of this order. It is made clear that till orders are passed by the respondents, the interim order dated 09.04.2009 passed by this Court in WPMP.No.9754 of 2009 shall continue to operate.

Miscellaneous petitions, if any, pending consideration in the Writ Petition shall stand closed in consequence. No order as to costs.

JUSTICE A.V. SETHA SAI

DATED 16TH APRIL, 2015.

Msnr_x