

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

WRIT PETITION NO.18111 of 2015

Between :

Mohammed Mohiuddin

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Petitioner

and

The Greater Hyderabad Municipal Corporation,
Rep.by its Special officer-cum-Commissioner, Hyderabad and
Others.

..

Respondents

DATE OF JUDGMENT PRONOUNCED : 11-08-2015

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SUBMITTED FOR APPROVAL:

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THE HON'BLE SRI JUSTICE P.NAVEEN RAO

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1. Whether Reporters of Local Newspapers : Yes / No
may be allowed to see the Judgments ?

2. Whether the copies of judgment may be : Yes / No
marked to Law Reporters/Journals

3. Whether Their Lordship wish to : Yes / No
see the fair copy of the Judgment ?

HON'BLE SRI JUSTICE P.NAVEEN RAO

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WRIT PETITON No.18111 of 2015

ORDER:

The petitioner is a resident of House bearing
No.19-3-305/8/1, Bibi Ka Chashma, Vattepalli Road, Jahanumba, Hyderabad. He alleges that the
3rd respondent, the owner of adjacent property in the northern side of his house, has constructed
ground plus two floors unauthorizedly without leaving setbacks and in the said premises, he has

allowed erection of Telecommunication Infrastructure Tower (T.I.T.) on the roof top. The petitioner alleges that when the building itself was an illegal construction, the question of making further construction in the form of erection of T.I.T. does not arise and it is wholly illegal. He further contends that as per the conditions imposed by the Government vide G.O.Ms.No.380, dated 01-08-2013, no such permission to erect T.I.T. can be allowed within the 100 meters radius of school. He submits that there is school located very near to the said building. Therefore, T.I.T. ought not to have been permitted to be installed.

The counter affidavit is filed on behalf of respondent-municipal Corporation. They have asserted that the construction of the building is concerned, there are no deviations and proper permissions were accorded. Further counter was silent whether there was any school within 100 meters distance from the concerned building. Today, additional counter affidavit is filed by the respondents 2 and 3. It discloses that there is a school located within 95 meters from the building, on which T.I.T. is installed. However, learned counsel appearing for the 4th respondent placed before this Court further orders issued by the Government in G.O.Ms.No.96, Municipal Administration and Urban Development (M1)Department dated 05-08-2015. These revised orders are issued in supercession of earlier orders in G.O.Ms.No.380, dated 01-08-2013. Several restrictions imposed in the earlier G.O. are now deleted including the location of T.I.T. within 100 meters to any school.

Though as rightly contended by learned counsel for the petitioner the granting of license to establish T.I.T. in the premises of the 3rd respondent was contrary to the orders of the Government in G.O.Ms.No.380, however, on account of subsequent G.O. issued by the Government on 05-08-2015 restriction for erection of T.I.T. within 100 meters from the school no more survives and is now permissible to erect T.I.T. Therefore, it cannot be said now that erection of roof top T.I.T. on that ground as illegal warranting interference by this Court in exercise of power under Article 227 of Constitution of India.

Accordingly, the Writ Petition is disposed of. There shall be no order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in this Writ Petition, shall stand closed.

P.NAVEEN RAO, J

11-08-2015
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