

**THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA
RAO**

WRIT PETITION No.36186 OF 2015

ORDER :

Heard counsel for the petitioner, Sri L.Prabhkar Reddy, Standing Counsel for respondents 1 to 3 and Sri B.Nalin Kumar, Counsel for 4th respondent.

2. Petitioner herein had lodged complaints dt.17.04.2015 and 22.04.2015 with 1st respondent alleging that 4th respondent had made illegal constructions in plot No.8 in survey Nos.279(part) and 280(part) of Shapur Nagar, Quthbullapur within the limits of Greater Hyderabad Municipal Corporation.

3. When these complaints were not considered by the respondents 1 to 3, he filed W.P.No.13726 of 2015 and sought to challenge the inaction of the respondents 1 to 3.

4. By order dt.16.06.2015, the said Writ Petition was disposed of directing the respondents 1 to 3 to consider the above representations and pass appropriate orders in accordance with law. It was further observed that if respondents 1 to 3 propose to take action adverse to the interest of the 4th respondent, 4th respondent shall be put on notice.

5. After this order was passed by this court, the impugned

show cause notice was issued to the 4th respondent on 13.07.2015 to the following effect:

“ I invite your attention to the notice referred 2nd above, wherein you were requested to take steps to follow in accordance with the approved building plan. But we did not receive any reply so far.

Further, the Hon'ble High Court of Judicature at Hyderabad for the state of Telangana and Andhra Pradesh has passed orders in the case of W.P.No.13726 of 2015 on 16.06.2015 (copy enclosed) to take action in accordance with law.

Hence, show reasons why action should not be initiated against your building within 15 (FIFTEEN) days from the date of receipt of this order”

6. Alleging that notice issued to the 4th respondent is vague and it does not disclose details of any alleged illegal constructions said to have been made by the 4th respondent, this Writ Petition has been filed.

7. According to the petitioner not only are there serious deviations from the sanctioned plan in the constructions made by the 4th respondent, but there is also encroachment of public road by way of fixing generator, flex boards by laying flooring, encroaching the Manzeera Pipe Line on western side for parking purposes but he also erected heavy hoardings on the top of the buildings. But the notice issued by the 2nd respondent mentions none of these deviations. He further alleges that 4th respondent is supported by a local MLA and that was why the 2nd respondent has not taken any action.

8. On 05.11.2015, this Court directed the Commissioner of the 1st respondent-Corporation to appear before this Court and explain why he had issued such a vague notice dt.13.07.2015 to 4th respondent.

9. The Commissioner-2nd respondent has appeared before this Court through Sri L.Prabhakar Reddy, Standing counsel, who stated that the 2nd respondent had been recently appointed, that there is no technical person to advise about how to go about the matter, and that was why the notice was issued without any details.

10. I am of the opinion that the explanation given by the 2nd respondent cannot be said to be reasonable. If the 2nd respondent does not have any experience or advise of a technical expert, he can always seek legal advise or advise of a technical expert and then issue a proper show cause notice, more particularly, when the said show cause notice is being issued after an order was passed by this court on 16.06.2015 in W.P.No.13726 of 2015.

11. In this view of the matter, the allegation of the petitioner that the 2nd respondent had connived with the 4th respondent because the latter has political support, cannot be totally ruled out.

12. Therefore, this Writ Petition is allowed; the notice

dt.13.07.2015 issued by the 4th respondent is set aside; the 2nd respondent is directed to issue a proper notice giving details of the violations, if any, indulged in by the 4th respondent while making constructions in the above property, within one week from today; the 4th respondent shall then respond to the same within 15 days from the date of receipt of the said notice. The matter shall then be decided by the 2nd respondent after giving a personal hearing to the petitioner as well as the 4th respondent. The Commissioner-2nd respondent shall also personally pay costs of Rs.5,000/- to the petitioner for his above conduct within one week from today.

13. Consequently, Miscellaneous Petitions pending if any, shall stand closed.

M.S. RAMACHANDRA RAO, J

12th November, 2015.
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