

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

WRIT PETITION NO.26395 of 2015

Between:

Y.Subramanyam s/o. late Y.Suddaiah, Age 48 years,
Occu: Labour, r/o. D.No.6/973-A, Nunevaripalli,
Rajampet Mandal, YSR Kadapa District.

.... Petitioner

AND

The State of Andhra Pradesh, rep.by the Principal
Secretary, Municipal Administration and Urban
Development Department, A.P.Secretariat,
Hyderabad and two others.

.... Respondents

DATE OF JUDGMENT PRONOUNCED : 19.08.2015

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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 may : Yes / No
Be allowed to see the Judgments ? :

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

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

HON'BLE SRI JUSTICE P.NAVEEN RAO
WRIT PETITION No.26395 of 2015

ORDER:

Petitioner was granted building permission on 18.03.2015 to construct building of ground plus first floor. On 29.05.2015, show-cause notice was issued to the petitioner cancelling the building permission on the ground that petitioner misled the office regarding title over the site. Petitioner submitted his explanation on 03.06.2015. Alleging that the explanation was not considered and further orders are passed on 08.06.2015 without following due process cancelling the building permission, petitioner instituted W.P.No.17016 of 2015. The said writ petition was disposed of by order dated 15.06.2015 directing to treat the proceedings dated 08.06.2015 as show-cause notice, consider the explanation filed by the petitioner and also to consider additional explanation that may be filed by the petitioner. Petitioner was also granted liberty to file additional explanation. Accordingly, additional explanation filed by the petitioner on 27.06.2015. After receiving explanation, the competent authority fixed the personal hearing on 29.07.2015, wherein petitioner has attended. The Commissioner has passed orders on 05.08.2015 cancelling the building permission and issued further directions to remove the illegal construction made within a period of one week. Aggrieved thereby, petitioner filed appeal under Section 345(1)(c) of A.P.Municipalities Act, 1965. This writ petition is filed contending that though appeal is filed along with stay application, so far no orders are passed and on

the contrary, time fixed by the Municipality on 05.08.2015 is coming to an end today and there is every likelihood of removing of structures already made by the petitioner.

2. Learned Assistant Government Pleader pointed out that the appeal under Section 345(1)(c) of the A.P.Municipalities Act, 1965 against the decision of the Commissioner lies to the Municipal Council, whereas petitioner preferred appeal before the Regional Deputy Director, Town and Country Planning at Anantapur. Learned Assistant Government Pleader, therefore, pointed out that appeal filed by the petitioner is contrary to statutory provision as it clearly mandates preferring such appeal only to the Municipal council.

3. Having regard to the said submission of learned Assistant Government Pleader, learned counsel for petitioner seeks leave of the Court to prefer an appeal to the Municipal Council along with stay application within a period of one week.

4. Having regard to the said submission, the writ petition is disposed of granting liberty to the petitioner to prefer an appeal under Section 345 (1)(c) of the Municipalities Act to the Municipal Council within a week from today and if such appeal is received by the Municipal Council within a week along with stay petition, the Municipal Council shall consider the same as expeditiously as possible, preferably within a period of four weeks. Till such appeal is considered and appropriate orders are passed by the Municipal Council, respondent municipality shall not take any coercive steps against the petitioner as directed in the proceedings dated 05.08.2015.

5. Accordingly the writ petition is disposed of. There shall be no order as to costs. Miscellaneous petitions if any pending in the writ petition shall stand closed.

JUSTICE

P.NAVEEN RAO

Date : 19.08.2015

Note: Issue C.C. by two days

B/o

kkm

HON'BLE SRI JUSTICE P.NAVEEN RAO

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