

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

**TUESDAY, THE TWENTY SECOND DAY OF SEPTEMBER TWO
THOUSAND AND FIFTEEN**

–
Present

HON'BLE SRI JUSTICE P.NAVEEN RAO

–
WRIT PETITION No.30724 of 2015

Between:

The Institution of Engineers (India),
Vishvesvaraya Bhavan,
Khairatabad, Hyderabad,
Rep. by its Honorary Secretary.

.. Petitioner

AND

State of Telangana,
Secretariat, Hyderabad,
Rep. by its Principal Secretary,
Municipala Administration & 2 others

.. Respondents

The Court made the following:

–
–
–
–
–
–
–
–
–
–
–

HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.30724 of 2015

ORDER:

The petitioner challenges the notice under Section 636 of the Greater Hyderabad Municipal Corporation Act, 1955 (for short, 'the Act'), dated 08.09.2015, wherein it is alleged that the petitioner has made structures in stilt floor which was designated as parking area in the premises bearing No.6-2-910 (Vishweshwaraiah Bhavan), situated at Khairatabad, Hyderabad, as contrary to the building permission granted.

2. Learned counsel for the petitioner contends that the said notice is not preceded by the procedure as envisaged in Section 452 of the Act. There was no prior opportunity and straight away the order is passed under Section 636 of the Act and, therefore, the same is *ex facie* illegal. The order seeks to penalize the petitioner on the allegation of utilizing the parking space for other purposes and consequentially taking penal action against the petitioner.

3. Though the notice refers to the earlier correspondence, as pointed out by the learned counsel for the petitioner, the earlier correspondence is on different context and is nothing to do with the alleged illegal conversion of parking space.

4. On instructions, learned Standing Counsel fairly submits that no prior notice was issued and that the notice issued under Section 636 of the Act will be treated as notice under Section 452(1) of the Act and appropriate further proceedings will be taken up.

5. Having regard to the same, the Writ Petition is disposed of directing the 2nd respondent Municipal Corporation to treat the notice under Section 636 of the Act, dated 08.09.2015, as the notice issued under Section 452(1) of the Act and afford due opportunity to the petitioner to explain the stand of the petitioner. At request of the learned counsel for the petitioner, four (4) weeks time from today is granted to the petitioner to file his explanation to the notice, dated 08.09.2015. On receipt of the said explanation, appropriate further steps shall be taken by the 2nd respondent Municipal Corporation, in accordance with law. Until final orders are passed, no coercive action shall be taken by the 2nd respondent Municipal Corporation against the petitioner. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

P.NAVEEN RAO, J

Date: 22nd September, 2015

Note: Issue C.C. by 28.09.2015.

(B/o.)

KL



HON'BLE SRI JUSTICE P.NAVEEN RAO

-
-
-
-

-
-
-
-

KL