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.30821 of 2015

Between:

Syed Saleem Mohinuddin,
S/o. Syed Mohiuddin, Aged about 59 years,
Occ: Retired Employee,
R/o. 17-1-210/3/10/A, Santosh Nagar,
Hyderabad.

.. Petitioner

AND

Hyderabad Metro Water and Sewerage Board,
Rep. by its General Manager, Head Office,
Khairtabad, Hyderabad & another

.. Respondents

The Court made the following:

HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.30821 of 2015

ORDER:

The petitioner challenges in this writ petition the levying of penalty by three times to the water connection provided to the petitioner.

2. Learned counsel for the petitioner contends that building regularization application is pending with the competent authorities and since that application is not disposed of, the petitioner cannot have proper Occupancy Certificate. Insisting for Occupancy Certificate and levying three times penalty is arbitrary and illegal and the learned counsel further submits that at the time of providing water connection, the petitioner was not informed that he would be levied three times penalty than the normal charges payable. Had it been informed to the petitioner, he would have worked out his remedies otherwise, but suddenly at this stage no higher levy can be imposed on the petitioner.

3. Learned Standing Counsel submits that the provision of water connections is regulated by rules notified by the Government vide G.O.Ms.No.168, Municipal Administration and Urban Development (M) Department, dated 07.04.2012, and according to Rule 26(g), if Occupancy Certificate is not produced, even though water connection is provided, the authorities are competent to levy three times penalty than the normal tariff payable and such condition is applicable to all unauthorized constructions. According to Rule 26(a), it is

mandatory to have Occupancy Certificate to occupy any building and to provide for water supply.

4. Having regard to the statutory mandate, it cannot be said that the respondent Board is not entitled to levy penal charges. Further more, admittedly, the construction of the building in which the petitioner is living as on today is unauthorized as no regularization is granted. Thus, the provisions in Rule 26(a) and (g) are attracted in the case of the petitioner.

5. Learned counsel for the petitioner submits that the petitioner has submitted representations on 12.08.2015 and 21.08.2015 to the respondent Board, but so far, no action is taken. Learned counsel for the petitioner further submits that the writ petition may be disposed of by directing the respondent Board to consider the representations.

6. Having regard to the submissions made, the Writ Petition is disposed of, without expressing any opinion on merits, by directing the respondent Board to consider the representations, dated 12.08.2015 and 21.08.2015, submitted by the petitioner and pass appropriate orders, as warranted by law. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

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P.NAVEEN RAO, J

Date: 22nd September, 2015

Note: Issue C.C. by one (1) week.

(B/o.)
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HON'BLE SRI JUSTICE P.NAVEEN RAO

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WRIT PETITION No.30821 of 2015

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Date: 22nd September, 2015

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