

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.18612 of 2015

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Between:

Bolla Ilaiah

.. Petitioner

and

The State of Telangana, rep.by its Principal Secretary, Municipal & Urban Development Department, Secretariat, Hyderabad and three others.

.. Respondents

This Court made the following:-

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

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ORDER:

Alleging that illegal construction was made by the petitioner without obtaining

permission, notice under Section 452(1) & 461(1) of the Hyderabad Municipal Corporation Act, 1955 (for short, "the Act") was issued on 30.5.2015.

2. According to the petitioner, explanation was filed by him on 11.05.2015. Without considering the said explanation and holding it as if no explanation was filed by the petitioner, notice was issued under Section 452(2) of the Act on 12.06.2015. That order also does not assign reasons why the action should be continued against the petitioner.

3. The orders impugned have got severe civil and evil consequences if they are upheld, as the building of the petitioner has to be dismantled since the respondent Corporation holds the same as being constructed unauthorizedly. That being so, it is mandatory for the authorities to follow the procedure strictly after affording due opportunity of hearing. According to the learned counsel for the petitioner, explanation was submitted on 11.5.2015, which was received by the respondent Corporation, as evident from the acknowledgment filed at page No.19 of the material papers. That being so, it is clearly illegal on the part of the competent authority in not considering the explanation of the petitioner before passing orders under Section 452(2) of the Act.

4. Having regard to the same, the notice, dated 12.6.2015, issued under Section 452(2) of the Act is set aside and the matter is remitted back to the respondent Corporation for reconsideration of the matter afresh i.e., from the stage of issuance of notice under Section 452(1) of the Act. Till the final orders are passed, the respondent Corporation shall not take any coercive steps.

5. With the above direction, the Writ Petition is allowed and matter is remanded. There shall be no order as to costs.

6. Miscellaneous Petitions pending, if any, in this Writ Petition shall stand closed.

JUSTICE P.NAVEEN RAO

Date: 21.9.2015

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