

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.34434 OF 2016

DATED : 17.11.2016

Between :

Smt Jansi Ramavath W/o.Ramavath Hatiram,
Aged about 26 yrs, Occu : Labourer,
R/o.H.No.8-3-107/B2/8, Indrasena Reddy Nagar,
Saroornagar, Ranga Reddy District & others.

.. Petitioners

And

The State of Telangana,
Rep., by its Principal Secretary,
Municipal Administration Department,
Secretariat, Hyderabad & others.

... Respondents



This court made the following :

THE HON'BLE SRI JUSTICE P.NAVEEN RAO**WRIT PETITION No.34434 OF 2016****ORDER :**

With the consent of learned counsel for the petitioners and learned Standing counsel for GHMC and learned counsel for respondents 4 and 5, the writ petition is disposed of.

2. Petitioners claim to be the persons who were in possession of the government land. Government in recognition of their possession and enjoyment of the land, granted orders of regularization and issued assignment pattas to them. While so, the 3rd respondent-GHMC, acting on the complaint given by respondents 4 and 5 seems to have issued notice calling upon the petitioners to submit their explanations on the allegation of unauthorized construction in the Plots mentioned in the notice and alleging illegal occupation of public road. Holding that inspite of service of notice no reply is furnished, orders are passed under Section 636 of Greater Hyderabad Municipal Corporation Act, (for short 'the GHMC Act') on 29.09.2016. Challenging the said order this writ petition is filed.

3. This Court by order dated 06.10.2016 directed the respondents not to dispossess or demolish the structures which are subject matter of the writ petition.

4. It is the primary contention of learned counsel for the petitioners that notice under Section 636 of GHMC Act, was issued without following due process. No prior notices were served on the petitioners and therefore, the question of petitioners not

responding to the notices and not submitting the explanations does not arise. He therefore, submits that the notice impugned in the writ petition is liable to be set aside on that ground alone.

5. Learned Standing counsel fairly submits that there is no authentic proof to show that the notices were served on the petitioners and inspite of service of notices, they did not file explanations.

6. Having regard to the contentions urged by the learned counsel for the petitioners, and since it is not verifiable whether the notices were actually served on the petitioners, learned counsel for the respondents 4 and 5 fairly submits that the matter may be remitted to the GHMC to consider the issue afresh from the stage of issuance of show cause notice by affording due opportunity to the petitioners and to submit their explanations and to direct the respondent-Corporation to take decision within the time bound schedule.

7. Having regard to these submissions, the writ petition is allowed and the impugned order is set aside and the following directions are issued :

(i) The matter is remitted to the stage of issuance of show cause notice dated 29.09.2016. A copy of the notice dated 29.09.2016 is served on the learned counsel for the petitioners. Petitioners are granted liberty to submit their explanations to the said show cause notice within a period of two (2) weeks from the date of receipt of copy of this order. If the explanation is filed within the time granted above, the competent authority of GHMC, shall consider the same and pass appropriate orders as warranted by law, within

a further period of four (4) weeks from the date of receipt of explanations. It is also open to the respondents 4 and 5, if so advised, to file objections within a period of two (2) weeks from the date of receipt of copy of this order. If no explanations are filed within the time fixed above, it is deemed that petitioners have no explanation to offer and it is open to the competent authority of the GHMC to take further action as warranted by law without any further notice.

(ii) If explanation is filed within the time granted above, till the final decision is taken, on consideration of the explanation, the respondent-GHMC shall not take any coercive action against the petitioners. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

17th November, 2016
Rds

P.NAVEEN RAO,J

