

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION No.14986 of 2016

ORDER:

Heard Sri Ghanta Rama Rao, learned Senior Counsel representing Sri Mohd. Islamuddin Ansari, learned counsel for the petitioner, and

Sri S.D. Gowd, learned Standing Counsel for the Kurnool Municipal Corporation.

The prayer of the petitioner in this case is as under:

“For the reasons stated in the accompanying affidavit the petitioner prays this Honourable Court may be pleased to issue an appropriate Writ or order or direction particularly one in the nature of Writ of Mandamus declaring the action of the respondent in issuing the impugned notice dated:03.12.2015 under section 636 of the Greater Hyderabad Municipal Corporation Act, 1955 without considering the representation dated 23.11.2015 and trying to demolish the building bearing Premises No. 50/775, situated at Gayathri Towers, Gayathri Estate, Kurnool, as arbitrary, illegal, in violation of well settled principles of natural justice and contrary to the provisions of the Greater Hyderabad Municipal Corporation Act, 1955 and to pass such other order/s as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

Perusal of the undated impugned notice signed on 03.12.2015 refers to the notice given earlier under Section 452(1) and (2) of the Greater Hyderabad Municipal Corporation Act, 1955, on 18.11.2015.

Sri Ghanta Rama Rao, learned Senior Counsel, would point out that pursuant to the said notice, the petitioner submitted representation dated 23.11.2015 which was received by the Corporation on 24.11.2015. However, the impugned notice merely brushed aside this explanation with a cryptic observation that no satisfactory response/explanation in writing was received.

When the Corporation had already issued the requisite statutory notice, it was incumbent upon it to consider the explanation offered by

the petitioner on merits and explain the reasons as to why it was found unsatisfactory. It is not open to the municipal authorities to pass such bald and unreasoned orders especially when they would have adverse civil consequences. Furnishing of reasons is now recognized as a principle of natural justice and it is not open to the municipal authorities to act in violation thereof.

On this short ground, the impugned notice is set aside. This order shall however not preclude the municipal authorities from passing fresh orders after duly considering the explanation submitted by the petitioner on its own merits in accordance with law.

The writ petition is allowed to the extent indicated above. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

JUSTICE SANJAY KUMAR

28th April, 2016
IBL/PGS