

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.22247 of 2016

ORDER :

The order dated 04.07.2016 cancelling the permission granted for construction in Sy.No.1059/E to the petitioner is challenged before this Court.

2. The principal ground on which the petitioner is challenging the order is that an unreasonable time of three days is granted to the petitioner to submit explanation and further, the order was served on a Sunday and thereby depriving the petitioner of reasonable opportunity to submit explanation. Petitioner also made respondent No.7 as party-respondent alleging *malafides* to the extent that at the instance of respondent No.7, the Grampanchayat has acted and impugned order came to be passed.

3. On the other hand, learned counsel appearing for the 7th respondent, who is on caveat, submitted that the petitioner had mislead the Grampanchayat and in the year 1998 with respect to the same property, petitioner had obtained plan, wherein, a road width of 50 feet had been shown, however, he did not proceed with the construction and now once again while applying for the permission, petitioner had shown the road width in front of the shops proposed to be constructed, as 66 feet and in the process, petitioner had completely closed ingress and egress to the property of 7th respondent, which is adjacent to the petitioner's land. This aspect of the matter was brought to the notice of the Grampanchayat and the Grampanchayat had rightly issued the notice and as the petitioner has not submitted explanation, the impugned order came to be passed.

4. Learned counsel Sri G.Narender Reddy, appearing for the Grampanchayat submits that the petitioner had mislead the Grampanchayat and as no explanation is forthcoming from the

petitioner, the impugned order came to be passed.

5. Having considered the respective submissions, as the petitioner is not given opportunity of submitting explanation particularly with respect to the allegation of the petitioner misleading the Grampanchayat, in fairness, an opportunity should be given. However, considering the nature of allegations which are made against the petitioner and considering the *prima facie* material placed by the petitioner himself before this Court it is evident that in the 1998 Naksha 50 feet road is shown and the present approved plan indicate 66 feet road, affording a post-decisional hearing to the petitioner would suffice and meet the interest of justice. In the event of the explanation that is to be submitted by the petitioner is not satisfactory, respondent-authorities are at liberty to take necessary action. As the material placed before this Court *prima facie* indicate that the petitioner has shown 66 feet road in contrast to the 50 feet road shown earlier, it is made clear that till such time the decision is made by the respondent-authorities, petitioner shall not make any further constructions. The entire exercise of petitioner submitting explanation and respondent-authorities considering the same and passing orders shall be completed within a period of four weeks from the date of receipt of this order. It is also made clear that the petitioner shall be afforded fair opportunity of hearing.

6. Subject to the above directions, the writ petition is disposed of. No costs. As a sequel, pending miscellaneous applications, if any, shall stand closed.

CHALLA KODANDA RAM, J

12th July 2016

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N.B:

Issue C.C. in two days.

(b/o)

ajr