

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

**WRIT PETITION Nos.41515, 41516, 41517, 41518,
41520, 41526 & 41528 OF 2016**

DATED : 29.11.2016

Between :

Dr.Shakeel Moinuddin S/o.Dr.Muslehuddin,
Aged about 40 yrs, Occu : Doctor,
R/o.H.No.20-130, Doctors Colony,
Miryalguda, Nalgonda District.

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Petitioner

And

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

Respondents



This court made the following :

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

**WRIT PETITION No. 41515, 41516, 41517, 41518, 41520,
41526 & 41528 OF 2016**

COMMON ORDER :

Heard Sri Mohd.Zia-Ul-Haq, learned counsel for the petitioners and learned Standing counsel for the Municipal Corporation. With the consent of both the counsel these writ petitions are disposed of at the admission stage.

2. In all these writ petitions, petitioners challenge notices dated 23.11.2016 communicated to each of the petitioners, alleging illegal constructions made and directing them to remove the same within seven days from the date of receipt of the notice.

3. In each of these cases, petitioners claim to have valid defence on the allegations made. According to the petitioner in W.P.No.41515 of 2016 earlier he availed the benefit of scheme of regularization of unauthorized constructions and an order was passed in his favour on 26.08.2010 regularizing the unauthorized construction after penalizing the alleged illegal constructions made. Therefore, the question of initiating fresh proceedings, on the same issue, would not arise.

4. In so far as petitioners in W.P.Nos.41516, 41517, 41518, 41520 and 41526, they contend that as a consequence to the scheme of regularization launched by the Government, recently they have applied for regularization and their applications are yet to be processed and finalized. Thus, pending regularization applications, notices could not have been issued asking the

petitioners to remove the alleged unauthorized constructions made and that would amount to pre-determining the issue and foreclosing the option of availing the benefit of regularization under the scheme.

5. In so far as petitioner in W.P.No.41528 of 2016 is concerned, it appears she has not even submitted application for regularization.

6. Learned counsel for the petitioners would submit that the notices directing removal of alleged illegal construction was not preceded by an opportunity of hearing. If only an opportunity was provided to the petitioners, they would have explained their stand. Therefore, straight away such an order could not have been passed, when such orders visit with civil and evil consequences. He would further submit that as evident from reading of the notices, the present notices were issued based on an inspection seems to have been conducted by Revenue Divisional Officer, Tahsildar and Municipal Corporation. No such prior notices were issued to the petitioners regarding such inspection and no report of inspection was furnished to them and this also amounts to denial of reasonable opportunity. The Commissioner based his decision on the said inspection.

7. Learned Standing Counsel would fairly submit that since these notices were not preceded by opportunity of hearing, the Municipality would treat the same as show cause notices and petitioners may submit their explanations to the said show cause notices within a reasonable time.

8. Having regard to the submissions made, the writ petitions are disposed of as under :

(i) The notices dated 23.11.2016 shall be treated as show cause notices and petitioners be given an opportunity of hearing and to submit their explanations.

(ii) The respondent-Municipal Corporation shall serve copies of inspection report which is the basis for issuing the impugned notices, within a period of one week from the date of receipt of copy of this order.

(iii) On receipt of such report, the petitioners shall submit their explanations within a period of ten days thereafter, by enclosing all the documents in support of their claim.

(iv) The commissioner shall consider the explanations submitted by the petitioners along with the documents, if any submitted and pass reasoned order and communicate the same to the petitioners.

(v) Till the orders as directed above are passed, the respondent-Municipality shall not take any coercive steps against the petitioners. There shall be no order as to costs.

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

P.NAVEEN RAO,J

29th November, 2016

Note : C.C. in one week

B/o.
Rds