

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.37549 of 2016

ORDER:

This writ petition under Article 226 of Constitution of India is filed seeking to declare the action of the 2nd respondent in rejecting to consider the issuance of No Objection to the petitioner vide Rc.No.32/MSB/SR/2016, dated 21.09.2016, as illegal and arbitrary.

Heard and perused the material available on record.

The case of the petitioner is that the petitioner has constructed Hotel Building at D.No.15/184 in Survey No.1944, Raju Road, Anantapuram Town, Anantapuram, after due permission from the 5th respondent and that the petitioner has applied for No Objection Certificate for the purpose of occupancy vide application, dated 19.01.2016, to the 2nd respondent requesting for inspection of the petitioner's premises and for issuance of the No Objection Certificate, but the 2nd respondent has returned the proposal on 19.03.2016 on the ground that while constructing the hotel, the petitioner has not obtained a Provisional No Objection Certificate and the 2nd respondent is also seeking certain details from the petitioner for consideration of the issuance of No Objection Certificate and that the petitioner has re-submitted the proposal by enclosing the requisite papers on 30.03.2016. The main grievance of the petitioner is that though the petitioner has re-submitted the application on 30.03.2016, the 2nd respondent is not considering the application of the petitioner, dated 19.01.2016, for issuance of No Objection Certificate.

Learned counsel for the petitioner submitted that in an earlier occasion, this Court in W.P.24434 of 2016 has set aside the impugned order on the ground that non-obtaining of Provisional No Objection

Certificate cannot be a ground to reject the proposal for No Objection Certificate and directed the respondents therein to issue Provisional No Objection Certificate in favour of the petitioner therein as per his application.

Considering the facts and circumstances of the case and the submissions of the learned counsel for the petitioner, this Court is of the view that rejection of the proposal submitted by the petitioner for issuance of No Objection Certificate only on the ground that the petitioner has not obtained a Provisional No Objection Certificate while constructing the hotel cannot be a ground to reject the application submitted by the petitioner, dated 19.01.2016, for issuance of No Objection Certificate.

Having regard to the same, the writ petition is disposed of with the following direction:

The proceedings issued by the 2nd respondent in Rc.No.32/MSB/SR/2016, dated 21.09.2016, are hereby set aside and the 2nd respondent is directed to issue No Objection Certificate to the petitioner, if the application of the petitioner, dated 19.01.2016, is in accordance with the provisions and requirements of the respondent authorities concerned.

Accordingly, the Writ Petition is allowed. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition, shall stand closed.

RAJA ELANGO,J

Date: 3rd November, 2016

KL