

HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
HON'BLE SRI JUSTICE A V SSHA SAI

WRIT APPEAL No. 20 OF 2016

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03.02.2016

Between:

Syed Akthar, Hyderabad, and another

... Appellants

And

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

... Respondents

HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
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PC: (per the Hon'ble the Acting Chief Justice Dilip B. Bhosale)

This writ appeal is directed against order dated 07.01.2016 passed by learned Single Judge in W.P.No.1024 of 2016 whereby he has rejected the prayer made in the writ petition.

In the writ petition, the appellants/petitioners sought writ of mandamus declaring the action of the third respondent issuing impugned proceedings dated 29.12.2015 under Section 456 of the Greater Hyderabad Municipal Corporation Act, 1955 (for short 'the Act'), as illegal, arbitrary and unconstitutional, pending finalisation of the regularisation applications submitted by the petitioners on 29.12.2015 and 09.12.2015 respectively before the second respondent in terms of G.O.Ms.Nos.151 and 152 both dated 02.11.2015 issued by the first respondent. The appellants have also prayed for direction to the respondents not to take any steps for removing offending structure.

The petitioners, earlier had questioned an order made under Section 452(2) of the Act in W.P.No.21681 of 2012. The only ground raised in the writ petition was that before the said order was passed, notice under Section 452(1) of the Act was not issued. In view thereof, this Court *vide* order dated 28.07.2015 disposed of the writ petition with direction to treat the order under Section 452(2) of the Act as notice and permitted the petitioners to submit their explanation within six weeks. The Corporation was further directed to consider the explanation, if any, and pass appropriate order. It was further

observed that if the petitioners failed to file any explanation within the stipulated time, it was open for the Corporation to take appropriate action as per law.

It is not in dispute that the petitioners did not submit their explanation and the only reason mentioned for non-furnishing of explanation is “personal problems”. Nothing further has been stated by the petitioners either in the writ petition or in the memorandum of appeal. In this backdrop, the impugned action has been initiated by the Corporation.

Merely because the petitioners have made application for regularisation of illegal constructions in terms of the aforementioned Government Orders, does not mean this Court cannot proceed to decide the writ petition/appeal on merits.

The learned Single Judge while dismissing the writ petition in the concluding paragraph made the following observations:

“The facts as admitted above would clearly show that though this Court has shown its indulgence by interfering with the order passed by the Corporation under Section 452(2) of the Act and granting six weeks time to the petitioners to submit their explanation, on the petitioners’ own showing, no such explanation has been submitted by them. Therefore, respondent Nos.2 and 3 were left with no option other than confirming the notice issued under Section 452(1) of the Act and issued a notice under Section 636 of the Act for removal of the admitted illegal construction. The petitioners cannot once again seek the indulgence of this Court by raising the bogie that after the disposal of the previous writ petition they have applied for regularisation. The petitioners, who have no respect for law and raised massive constructions without permission, are not entitled to any further indulgence of this Court.”

We are in agreement with the observations made by learned Single Judge. We do not find any reason to take a view other than the one taken by learned Single Judge. No indulgence can be shown to such litigants who play with the authority and also take the Court for granted and take chance by filing writ petition before this Court under

Article 226 of the Constitution of India. We do not find the conduct of the appellants fair and reasonable.

In the circumstances, the appeal is dismissed.

Miscellaneous petitions, if any, also stand disposed of.

DILIP B. BHOSALE, ACJ

A V SESA SAI, J

Date: 03.02.2016
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