

THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.14363 of 2011

ORDER:

Heard Sri Damodar Reddy for petitioner and the Assistant Government Pleader (Panchayat Raj) for the 1st respondent. No representation for respondents 2 and 3.

The petitioner challenges Proceedings No.439/2011-B4 (Pts) dated 07-05-2011 as arbitrary, violative of principles of natural justice and illegal.

The 1st respondent through the proceedings impugned in the writ petition has revoked the layout permission granted by respondents 2 and 3 in favour of petitioner-Developer. The operative portion reads as follows:-

“The explanation offered was examined as per Layout & Building Rules issued in G.O.Ms.No.67 PR & RD Dept., dated 26-02-2002 and found that, as per Rule 11(2) of the said Rules, on receipt of layout proposals, the Executive Authority has to forward the proposals to the District Town & Country Planning Officer for Tentative layout approval and after getting Tentative approval, the owner has to proceed with formation of layout.

In the instant case, the said owner of the firm has not followed the said rules and other side he relying upon the approval of layout given by the Panchayat Secretary/ Sarpanch which is not correct and illegal act and violation of Rules and Regulations issued in G.O.Ms.No.67, dated 26-02-2002.

In the reference 3rd cited, a show-cause notice has been issued to Sri Ram Reddy, Site Manager, Kubera Sagaram Greatway Shopping (P) Ltd., for not following the

rules issued in G.O.Ms.No.67 PR&RD, dated 26-02-2002 and not technically approved by the Director of Town & Country Planning as envisaged in the said G.O. and directed to Show-Cause as to why the illegal layout in Sy.Nos.156, 157, 158, 159, 160, 218, 219 situated at Chilkamarri Village of P.A, Pally Mandal, should not be revoked under Rule (8) of the Rules issued in G.O.Ms.No.67 PR&RD, dated 26-02-2002 within (3) days i.e., by 25-04-2011 and why the plotting stones and illegal structures should not be removed. Though the above Show-Cause Notice was issued on him on 26-04-2011, but he failed to reply to the Show-Cause Notice even to this day.

In view of the above, under Rule (8) of Layout Rules, the layout permission granted by the Sarpanch/ Panchayat Secretary, Gram Panchayat, Chilkamarri of P.A. Pally Mandal is hereby revoked, as it is wrong permission leading to mis-interpretation of rules instead of forwarding the layout proposals in complete shape to the District Town & Country Planning Officer for Technical sanction.

The Panchayat Secretary/ Sarpanch, Gram Panchayat, Chilkamarri shall implement these orders and in time.”

Sri Damodar Reddy contends that Chilkamarri Gram Panchayat has less than five thousand population and therefore, without reference to Director of Town and Country Planning, the layout was sanctioned by respondents 2 and 3 and, therefore, no exception can be taken to the layout sanctioned in favour of petitioner. He further submits that the 1st respondent without putting the petitioner on notice but assumed everything against petitioner on the lack of jurisdiction, that the layout is contrary to law etc., passed the proceeding impugned in the writ petition. On the short

ground that the revocation order is issued without giving fair and full opportunity to petitioner, he prays for setting aside the same.

The 1st respondent filed counter affidavit and explained the procedure followed by the Gram Panchayat under G.O.Ms.No.67 PR&RD, dated 26-02-2002 for according layout sanction and in the case on hand the deficiencies noticed in the permission granted in favour of petitioner.

I have perused the counter affidavit filed by the 1st respondent. This Court is of the view that the 1st respondent no doubt has issued the proceeding impugned in the writ petition to direct compliance with the rigor of G.O.Ms.No.67 PR&RD, dated 26-02-2002. Before deciding on the jurisdiction or the authority for granting layout, this Court is of the view that the 1st respondent ought to have heard the petitioner, verified the population of Chilkamarri Gram Panchayat and thereafter passed orders.

The Assistant Government Pleader, from the material available on record, could not satisfy the Court that these aspects have been examined by the 1st respondent.

To meet the ends of justice and also afford opportunity to petitioner to explain its view point, I am satisfied the writ petition can be disposed of by this order.

(a) The proceeding impugned in the writ petition is directed to be treated as show-cause notice for both parties.

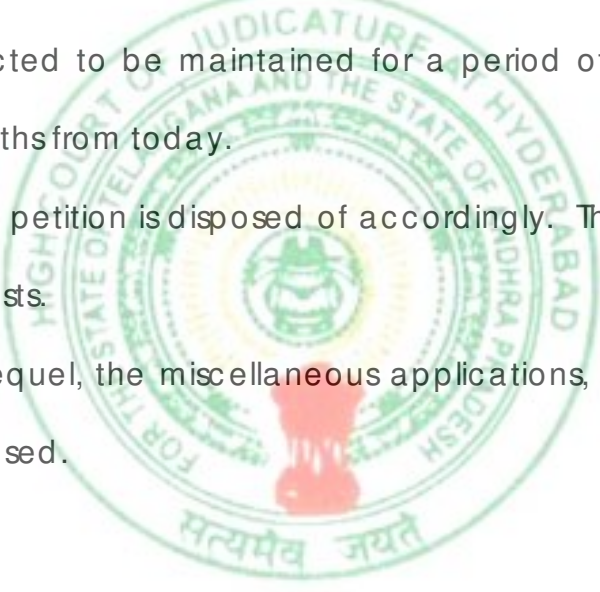
(b) The petitioner is given four weeks time from the date of receipt of a copy of this order, to submit explanation to the 1st respondent against show-cause notice.

(c) The 1st respondent is directed to enquire into the allegations against the petitioner and pass orders within a further period of two months.

(d) The interim order granted on 18-05-2011, as made absolute on 17-08-2011, is directed to be maintained for a period of four months from today.

The writ petition is disposed of accordingly. There shall be no order as to costs.

As a sequel, the miscellaneous applications, if any pending, shall stand closed.


S. V. BHATT, J

Date: 20-03-2017
Prv

THE HON'BLE SRI JUSTICE S.V.BHATT



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