

**IN THE HIGH COURT OF JUDICATURE, AT HYDERABAD
FOR THE STATE OF TELANGANA & THE STATE OF
ANDHRA PRADESH**

HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION NO. 1035 OF 2017

Between:

Kanishk Gupta S/o Late Sri Vinod Kumar Gupta

....Petitioner

A n d

Greater Hyderabad Municipal Corporation represented by its
Commissioner and one another

....Respondents

DATE OF ORDER: 05.01.2017



HON'BLE SRI JUSTICE P. NAVEEN RAO**WRIT PETITION NO. 1035 OF 2017****ORDER:**

Petitioner was granted building permission to construct stilt for parking plus five upper floors with two residential flats in each floor. Alleging that the petitioner deviated the permission granted to him, he was initially issued notice under Sections 452 (1) & 461(1) of HMC Act, 1955, on 22.11.2016. In notice issued under Section 452 (1) it was alleged that the petitioner laid Cellar Floor in addition to permitted Ground + Five Floors.

2. On 8.12.2016 notice under Section 452(2) was issued directing the petitioner to remove the unauthorized construction made. Thereafter, on 4.1.2017 notice under Section 636 was issued. Notice dated 4.1.2017 is challenged in this Writ Petition.

3. Learned counsel appearing for petitioner contended that though the petitioner submitted his explanation to the notice dated 22.11.2016, the same was not considered and in notices issued under Sections 452 and 636 a new allegation is leveled.

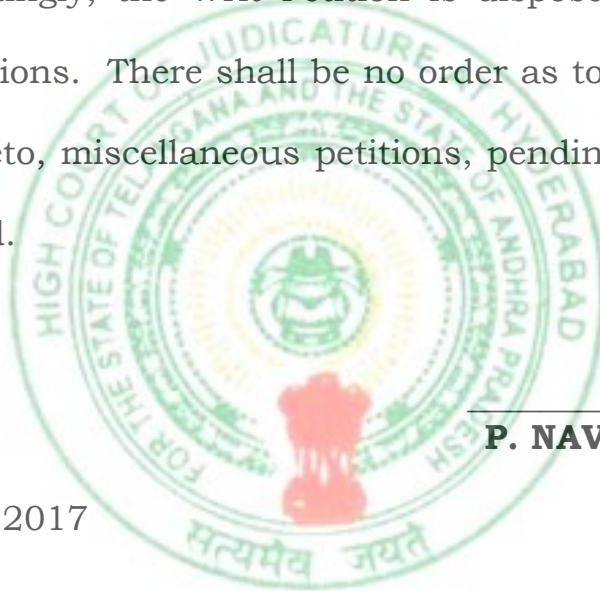
4. A bare reading of these notices would disclose that there is justification in the contention of the petitioner.

5. Having regard to the said issue, both the counsel agreed for disposal of the Writ Petition with the following orders:

- (1) The notice dated 4.1.2017 shall be treated as show cause notice under Section 452 (1) in addition to the notice issued on 22.11.2016.
- (2) Petitioner shall submit explanation within a period of two weeks from the date of receipt of a copy of this order. On receipt of such explanation further action shall be taken as warranted. If no explanation is filed within the time granted, in accordance with the notice issued on 4.1.2017 it is permissible to the respondent Corporation to proceed against the petitioner.
- (3) Petitioner is directed not to make any further construction till the issue is finalized.
- (4) Petitioner shall also file an undertaking before the Deputy Commissioner (second respondent) that he will not put to use the cellar and shall close the cellar within two weeks from the date of receipt of a copy of this order.

- (5) The Deputy Commissioner shall verify whether the cellar is closed and shall record the same and issue a certificate to the petitioner about the closing of the cellar to his satisfaction.
- (6) If the explanation is filed by the petitioner within the time granted, no coercive action will be taken till the issue is finalized.

6. Accordingly, the Writ Petition is disposed of with the above directions. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, pending if any, shall stand closed.



P. NAVEEN RAO, J

Date: 05.01.2017
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