

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.29210 of 2017

ORDER:

This writ petition filed under Article 226 of the Constitution of India challenges the order passed by the Commissioner, Greater Visakhapatnam Municipal Corporation, 2nd respondent herein, vide proceedings B.A.No.1086/847 Revised 2021/B/Z5/SAR/2016, dated 18.08.2017. By virtue of the said proceedings, the 2nd respondent revoked the plans approved earlier in favour of the petitioner. Previously, vide endorsement, dated 15.11.2016, the 2nd respondent cancelled/revoked the earlier approvals. Assailing the validity of the said endorsement, the petitioner filed W.P.No.21758 of 2017 and this Court allowed the said writ petition, setting aside the said endorsement on the ground of violation of principles of natural justice. Thereafter, on 02.08.2017, the respondent Corporation issued a show cause notice to the petitioner, calling for objections and in response to the said show cause notice, the petitioner submitted an explanation on 10.08.2017. The 2nd respondent, by way of the proceedings under challenge issued under Section 450 of the Hyderabad Municipal Corporation Act, 1955 (for short, "the Act"), revoked the earlier approved plans in respect of the subject property.

According to the learned counsel for the petitioner, the said action on the part of the 2nd respondent is highly illegal,

arbitrary, unreasonable and violative of Article 14 of the Constitution of India besides being opposed to the very spirit and object of the provisions of the Act. It is further submitted that the 2nd respondent did not consider the contents of the explanation filed by the petitioner on 10.08.2017 and that had the contents of the said explanation been considered by the 2nd respondent from proper perspective, the order under challenge would not have emanated.

On the contrary, it is vehemently contended by the learned Standing counsel, Sri S. Laxminarayana Reddy, that there is absolutely no illegality nor there exists any procedural infirmity in the impugned action and only after affording opportunity to the petitioner by giving show cause notice, the 2nd respondent passed the order under challenge, as such, there cannot be any complaint of violation of the principles of natural justice.

The information available before this Court manifestly discloses that after disposal of W.P.No.21758 of 2017 by this Court on 05.07.2017, the respondent Municipal Corporation issued a show cause notice to the petitioner, calling upon him to show cause as to why the earlier approved plans should not be cancelled/revoked. There is no dispute on reality that in response to the said show cause notice the petitioner filed an explanation on 10.08.2017 raising number of issues.

A perusal of the order under challenge discloses that except referring to the said explanation offered by the

petitioner, the 2nd respondent Municipal Corporation did not undertake any exercise in the direction of consideration of the contents of the said explanation. The manner in which the 2nd respondent considered the objections, in the considered opinion of this Court, cannot be approved. Therefore, the order passed by the 2nd respondent, which is impugned in the present writ petition, cannot be sustained and in the considered opinion of this Court the matter requires re-consideration by the 2nd respondent, after taking into consideration the contents of the explanation offered by the petitioner, in accordance with law.

For the aforesaid reasons, the writ petition is allowed, setting aside the impugned order, dated 18.08.2017, passed by the 2nd respondent and the matter is remitted to the 2nd respondent for consideration of the issue afresh, after considering the explanation offered by the petitioner and after giving opportunity of hearing to the petitioner, in accordance with law.

Miscellaneous petitions, if any, shall also stand disposed of.

A.V.SESHA SAI, J

Date: 30.08.2017
ES