

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

WRIT PETITION No.26403 of 2017

ORDER:

Heard the learned counsel for the petitioner and Sri P.Kesava Rao, learned Standing Counsel for GHMC.

By virtue of the notice, dated 01.08.2017, which is under challenge in the present Writ Petition, the second respondent-GHMC directed the petitioner herein to pay a sum of Rs.1,50,660/- towards advertisement fee for the year 2016-2017 and penalty for erection and use of hoarding. Earlier, the petitioner herein filed W.P.No.22197 of 2017 before this Court alleging interference by the second respondent-Corporation officials with the business activities of the petitioner herein and the insistence on payment of the advertisement tax without any notice and the said Writ Petition was disposed of by this Court by way of an order dated 18.07.2017 and paragraph Nos.4 and 5 of the said order read as under:

“Sri P. Kesava Rao, learned Standing Counsel appearing for the 2nd respondent submitted that the 2nd respondent is taking steps to issue a notice to the petitioner and after issuance of notice, appropriate action will be taken.

Recording the above submission, the Writ Petition is disposed of. No costs. However, the respondents are directed not to take any coercive steps against

the petitioner till then. Consequently, miscellaneous petitions pending, if any, shall stand closed”.

Now by way of the notice under challenge dated 01.08.2017 a demand for Rs.1,50,660/- is made by the respondent-Corporation towards advertisement fee. According to the learned counsel for the petitioner the fixation of amount, as indicated in the impugned notice, is highly illegal, arbitrary and not in consonance with the provisions of the Greater Hyderabad Municipal Corporation Act, 1955 and the impugned action is also in violation of the principles of natural justice, as the impugned action was not preceded by any notice and opportunity of being heard to the petitioner herein.

On the contrary, it is submitted by the learned Standing Counsel that the impugned action is strictly in accordance with the provisions of the Act and there is neither illegality nor any irregularity in the impugned action.

A perusal of the impugned notice dated 01.08.2017 shows that the respondent-Municipal Corporation placed reliance on the Field Inspection Reports of their officials dated 01.07.2017 and 31.07.2017 for arriving at the conclusion in the impugned notice. The impugned notice does not indicate the issuance of any notice to the petitioner herein before fixing the amount. In the considered opinion of this Court that the said action on the

part of the respondent-authorities, in not issuing the show cause notice before fixing the liability, is a patent violation of the principles of natural justice.

For the aforesaid reasons the Writ Petition is disposed of, permitting the petitioner to submit explanation to the impugned notice dated 01.08.2017, by treating the same as a show cause notice, within a period of two weeks from the date of receipt of a copy of this order and, if any such explanation is submitted within the time stipulated, the same be considered and appropriate further action be taken in accordance with law after giving notice to the petitioner herein. Till such exercise attains finality, no coercive action, pursuant to impugned notice, shall be taken. It is also made clear that, if the petitioner fails to submit the explanation within the time as stipulated above, this order will not enure to the benefit of the petitioner.

As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

08th August, 2017
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