

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

WRIT PETITION No.3931 OF 2017

ORDER:

A memo bearing No.RTI/72/2016, dated 02-09-2016 issued by the Public Information Officer/Tahsildar, Saidabad Mandal, informing that no record of acquisition pertaining to house bearing Nos.17-1-364 and 13-1-365 admeasuring 150 square yards situated at Phisalband is impugned in the present writ petition.

2. Earlier, in an appeal No.11412/CIC-R/2016, dated 11-07-2016 the Chief Information Officer passed an order and penultimate para of the said order reads as under:-

“Hence, the PIO/Spl. Dy. Collector (LP) KRRC, O/o the Hyderabad Collectorate, Hyderabad is directed to furnish the actual position which lead to evict the appellant from H.No.17-1-364 and 13-1-365 by providing the photocopies of the related files or transfer the application to the concerned Public Authority/PIO in case the related proceedings are not located, within 30 days of the receipt of this order.”

3. Pursuant to the above said order, the Public Information Officer, Saidabad issued the memo, which is under challenge.

4. Section 19(1) of the Right to Information Act, 2005 reads as under:-

“19(1):- Any person who, does not receive a decision within the time specified in sub-section (1) or clause(a) of sub-section(3) of Section 7, or is aggrieved by a decision of the Central Public Information Officer or the State Public Information Officer, as the case may be, may within 30 days from the expiry of such period or from the receipt of such a decision prefer an appeal to such officer who is senior in rank to the Central Public Information Officer or the State Public Information Officer, as the case may be, in each public authority;

Provided that such officer may admit the appeal after the expiry of the period of 30 days if he or she is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.”

5. In the instant case, the impugned memo is obviously in the nature of refusal. Therefore, the same is appealable as per the above provision of law. As such, it is open for the petitioner to avail the said remedy provided under the Act. In view of the availability of the said alternative remedy, this Court is not inclined to entertain the present writ petition under Article 226 of the Constitution of India. However, this court, having regard to the nature of the controversy and facts of the case, deem it appropriate to permit the petitioner to avail the appeal in terms of the above said provision of law.

6. For the aforesaid reasons, the writ petition is disposed of keeping it open for the petitioner to avail the remedy of appeal under Section 19 of the Right to Information Act,2005 against the impugned memo dated 02-09-2016 within a period of one month from the date of receipt of a copy of this order. If any such appeal is filed, the same be considered and appropriate orders be passed in accordance with law.

7. Miscellaneous petitions pending consideration, if any, in this case shall stand closed in consequence. No order as to costs.

08.02.2017
TSNR

A.V.SESHA SAI, J

