

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

WRIT PETITION No.23865 of 2017

ORDER:

Heard the learned counsel for the petitioner and Sri D.Ramesh, learned Standing counsel for respondent Nos.2 and 3 and Sri Sheshadri for respondent No.4.

The order passed by the 3rd respondent under the provisions of Section 115(3) of the A.P. Capital Region Development Authority Act, 2014 (for short, "the Act"), vide proceedings R.C.No.CRDA-12021(41)/63/2017, dated 05.07.2017, is under challenge in the present writ petition.

The 3rd respondent vide proceedings dated 19.06.2017, issued a show cause notice under Section 115(1) of the Act. In response to the said show cause notice, the petitioner submitted his explanation, dated 24.06.2017. Thereafter, the 3rd respondent by way of the order under challenge, confirmed the show cause notice, dated 19.06.2017, and ordered to demolish and remove the subject constructions.

According to the learned counsel for the petitioner, the impugned action, which culminated in the order under challenge, is highly illegal, arbitrary, unreasonable, violative of the principles of natural justice and violative of Article 14 of the Constitution of India. It is submitted by the learned counsel that though the petitioner submitted his explanation in elaborate manner, the 3rd respondent did not take into consideration the same. It is further submitted that before

passing the order under challenge, no opportunity was accorded to the petitioner.

On the contrary, it is submitted by the learned Standing counsel for respondent Nos.2 and 3 that there is no illegality nor there exists any procedural infirmity in the impugned action and in the absence of the same, the impugned order is not amenable to any judicial review under Article 226 of the Constitution of India. It is further submitted that the 3rd respondent assigned the reasons for confirming the show cause notice and as such intervention of this Court is not warranted under Article 226 of the Constitution of India.

A perusal of the material available on record discloses that in response to the show cause notice, dated 19.06.2017, issued by the 3rd respondent, the petitioner submitted his explanation on 24.06.2017. There is absolutely no dispute on the aspect of submission of the said explanation. A reading of the order under challenge discloses in vivid and clear terms, that the 3rd respondent, except reiterating the contents of the show cause notice, did not make any endeavour to consider the explanation offered by the petitioner and this exercise undertaken by the 3rd respondent, in the considered opinion of this Court, cannot be sustained nor it can be approved. On this short ground alone the impugned order is liable to be set aside.

For the aforesaid reasons, the writ petition is allowed, setting aside the order passed by the 3rd respondent vide

proceedings, dated 05.07.2017, and the matter is remitted to the 3rd respondent for fresh consideration in accordance with law, after giving notice and opportunity of hearing to the petitioner. No order as to costs.

Miscellaneous petitions, if any, shall stand closed.

A.V.SESHA SAI, J

Date: 02.08.2017
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