

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

W.P.No.11681 of 2007

ORDER:

Heard and perused the material available before the Court.

2. This writ petition filed under Article 226 of the Constitution of India, challenges the order passed by the District Collector and Executive Director, A.P. State Housing Corporation Limited, Adilabad-1st respondent herein dated 1.5.2007. By virtue of the said order, the 1st respondent cancelled the sanction of houses along with patta certificates of the petitioners herein.

3. According to the petitioners, they belong to poor families and they made applications for grant of house site pattas and vide proceedings Rc.No.C/6288/03 dated .6.2003, the 3rd respondent allotted house site pattas in favour of the petitioners herein. It is further stated in the affidavit filed in support of the writ petition that the Housing Board, Adilabad sanctioned houses under J.A.Y. Scheme in Kastala Ramakrishna Nagar, Mavala Gram Panchayat, Adilabad district with unit cost of Rs.25,000/- per house. It is further stated that accordingly amounts were deposited in the passbooks of the petitioners herein and petitioners got constructed the houses strictly in accordance with the instructions of the authorities under the scheme. The 1st respondent vide impugned proceedings dated 1.5.2007 cancelled the patta certificates of the petitioners herein on the ground that the original beneficiaries are not living in the houses. Challenging the validity and legal sustainability of the said order, the present writ petition came to be filed.

4. This Court, while ordering rule nisi on 7.6.2007, granted interim suspension of the impugned proceedings dated 1.5.2007.

5. The sum and substance of the case of the petitioners in the present writ petition is that the impugned action is in total violation of principles of natural justice and based on the enquiry said to have been conducted by the 2nd respondent behind the back of the petitioners herein without giving any opportunity, the 1st respondent grossly erred in cancelling the allotments. It is further specifically stated in the affidavit filed in support of the writ petition that no notice was issued to the petitioners before cancelling their pattas.

6. It is a settled and well established principle of law that any action which has civil consequences must be preceded by a notice and opportunity of being heard to the persons likely to be affected by such action. In the instant case, the said principle is followed in breach. There is no counter affidavit filed by the Respondents, denying the averments made in the writ affidavit, as such, the averments made in the writ affidavit are required to be taken as true.

7. For the aforesaid reasons, the writ petition is allowed, setting aside the order passed by the District Collector and Executive Director, A.P. State Housing Corporation Limited, Adilabad-1st respondent herein dated 1.5.2007. However, this order will not preclude the Respondents from proceeding against the petitioners herein in accordance with law, after giving notice and opportunity to the petitioners herein. As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

Date: 27.6.2017
DA

