

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.123 OF 2017

DATED : 04.01.2017

Between :

Patchigolla Spurgeon Raju,
S/o.Lazarus Paramjyothi,
Aged 69 yrs, Occu : Bishop,
R/o.Central Excise Colony
Vijayawada, Krishna District, AP
Rep., by his G.P.A.Holder,
Sri Munganda Elisha Raju,
S/o.Musalaiah, Aged 64 yrs,
R/o.4th Road, Shanthinagar,
Eluru, West Godavari District,
Andhra Pradesh.

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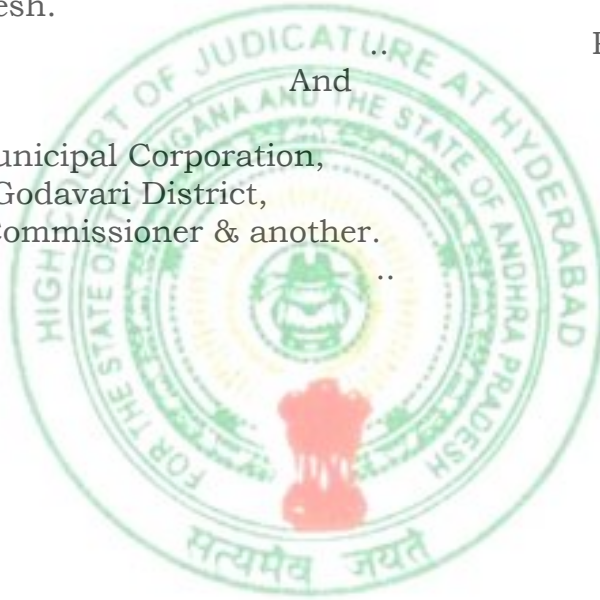
Petitioner

And

The Eluru Municipal Corporation,
Eluru, West Godavari District,
Rep., by its Commissioner & another.

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Respondents



This court made the following :

THE HON'BLE SRI JUSTICE P.NAVEEN RAO**WRIT PETITION No.123 OF 2017****ORDER :**

Heard. With the consent of both parties, the Writ Petition is disposed of at the admission stage.

2. Petitioner is aggrieved by the notice issued under Section 636 of Hyderabad Municipal Corporation Act (for short 'the Act'), directing the petitioner to remove deviations and violated portion within 24 hours from the date of receipt of notice. Hence, this writ petition.

3. Learned counsel for the petitioner contends that on 15.12.2016 notice under Section 452 and 461 of the Act was served alleging deviations in the set backs. Petitioner submitted detailed explanation to the said notice on 27.12.2016 which was received by the Corporation on 29.12.2016. He would submit that even though the explanation was received, and the same was reflected in the order, there is no discussion on the explanation submitted by the petitioner and on the contrary, the order holds that no explanation was submitted.

4. Learned Standing counsel fairly submits that submission of explanation is reflected in the order but there was no discussion on the same.

5. The order under challenge is a quasi-judicial decision affecting the property of the petitioner. When show cause notice was issued to the petitioner and he submitted his explanation, it is but necessary for a quasi judicial authority to consider the explanation, reflect the reasons urged in the explanation, assign

reasons as to why the explanation is not acceptable, take a decision and communicate the same to the party.

6. In the instant case, though a reference is made in the order about filing of explanation by the petitioner, and the same is also reflected, the body of the order holds as if no explanation is filed. This clearly shows non-application of mind by the Commissioner and mechanical decision on such an important issue.

7. Hoping that the Commissioner will be careful in future in passing orders, the Writ Petition is allowed setting aside the order impugned. The matter is remanded to the Commissioner for consideration of explanation dated 27.12.2016 submitted by the petitioner and passing reasoned order. Till a reasoned order is passed and communicated to the petitioner no coercive action shall be taken against the petitioner. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

4th January, 2017
Rds

P.NAVEEN RAO,J