

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

WRIT PETITION No.33221 of 2017

ORDER:

Heard learned counsel for the petitioner, learned Government Pleader for Municipal Administration & Urban Development for the first respondent, Sri N.Praveen Kumar, learned Standing Counsel for the second respondent, and Sri A.Giridhar Rao, learned counsel for the third respondent.

On the complaint given by the third respondent, the Commissioner, Mahabubnagar Municipality-second respondent herein issued a show cause notice bearing No.3063/W14/2016/0397, dated 27.07.2017, under Section 344 (6) of the Telangana Municipalities Act, 1965 (for brevity, 'the Act'), calling upon the petitioner to show cause as to why the building permission granted earlier should not be cancelled/revoked. In response to the said show cause notice, petitioner herein submitted an explanation on 02.08.2017, urging number of grounds, and requesting for dropping further action in the matter. The second respondent, by virtue of an order, vide proceedings dated 12.09.2017, rejected the building permission application under the provisions of the Act. This Writ Petition challenges the validity and legal sustainability of the

said order of rejection of the building permission passed by the second respondent on 12.09.2017.

According to the learned counsel for the petitioner, the order impugned is highly illegal, arbitrary, unreasonable and in violation of Articles 14 and 300-A of the Constitution of India besides being opposed to the very spirit and object of the provisions of the Act. It is the further submission of the learned counsel that, though the petitioner herein submitted an elaborate explanation on 02.08.2017, the second respondent did not consider the contents of the same.

On the contrary, the learned Standing Counsel and the learned counsel for the third respondent supported the impugned order by contending that there is no illegality nor there exists any procedural infirmity in the impugned action.

Admittedly, in the present case, in response to the show cause notice, dated 27.07.2017, petitioner herein submitted an elaborate explanation, dated 02.08.2017, raising a number of issues. There is absolutely no dispute with regard to the submission of the said explanation and receipt of the same by the second respondent. Having called for the explanation and having acknowledged the same, this Court does not find any

justification on the part of the second respondent in not taking into consideration the contents of the explanation offered by the petitioner herein. A perusal of the order impugned, dated 12.09.2017, discloses in clear terms that except showing the reply/explanation of the petitioner herein as one of the references in the impugned order, the second respondent did not make any endeavour in the direction of considering the contents of the explanation offered by the petitioner herein. The said exercise, undertaken by the second respondent, can neither be sustained nor approved by this Court. In the considered opinion of this Court the matter requires re-consideration by the second respondent after taking into consideration the contents of the explanation offered by the petitioner herein.

For the aforesaid reasons, the Writ Petition is allowed, setting aside the impugned order, passed by the second respondent vide proceedings No.3063/W14/2016/0397, dated 12.09.2017, and the matter is remanded to the second respondent for fresh consideration of the issue after taking into consideration the explanation offered by the petitioner herein and after hearing all the stakeholders, including the petitioner and the third respondent herein, and to pass appropriate orders, strictly in accordance with law.

Consequently, miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

A.V. SESA SAI, J

24th October, 2017
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