

THE HONOURABLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.35540 OF 2017

ORDER:

This Writ Petition is filed, under Article 226 of the Constitution of India, to declare the action of the respondents, in issuing notice dated 01.10.2017 in proceedings No.713/5/23/ACP/C5/GHMC/2017 under Sections 456 and 459 of the Greater Hyderabad Municipal Corporation Act, 1955 (for brevity, 'the Act'), as illegal, arbitrary, unconstitutional and violative of Article 300-A of the Constitution of India.

Heard learned counsel for the petitioners, learned Government Pleader for Municipal Administration and Sri N.Ashok Kumar, learned Standing Counsel for GHMC.

The grievance of the petitioners in the present Writ Petition is that, without being preceded by compliance of the provisions of Section 459 of the Act, the GHMC authorities issued the impugned notice.

The impugned notice does not refer to the issuance of any show cause notice as contemplated under Section 459 of the Act. Therefore, on this ground alone, the impugned notice is liable to be set aside.

Accordingly, the Writ Petition is allowed, setting aside the impugned notice, dated 01.10.2017, in proceedings No.713/5/23/ACP/C5/GHMC/2017. However, it is open

for the respondents to proceed, strictly in accordance with law, by issuing notice under Section 459 of the Act. It is made clear that, if any unforeseen thing happens, the petitioners alone shall be held responsible but not the GHMC authorities. However, this order will not preclude the GHMC authorities from proceeding as per law. There shall be no order as to costs.

Miscellaneous Petitions pending, if any, in this Writ Petition shall stand closed.

25th October, 2017
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A.V.SESHA SAI,J

