

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.41357 of 2017

ORDER:

By the notice impugned, dated 28.11.2017, the Additional Commissioner (Advertisements), GHMC, directed the petitioner to remove the Unipole at H.No.8-2-684/1, Road No.12, Banjara Hills, Hyderabad, immediately. In the said notice, it is further stated that failing compliance, further action will be initiated as per the provisions of GHMC Act, 1955. Aggrieved thereof, the petitioner is before this Court.

The facts, in brief, are as follows: - 'The petitioner was originally accorded permission to install a Unipole/sky sign at premises bearing H.No.8-2-594/2, Road No.1, Banjara Hills, Hyderabad. According to the petitioner, it made an application to shift the same to the alternative location at H.No.8-2-684/1, Road No.12, Banjara Hills. However, even before permission for shifting is accorded, the petitioner admittedly installed/erected the unipole/sky sign at the proposed new place.'

At the hearing, learned counsel for the petitioner would submit that as per the practice in such matters where application for shifting is pending consideration, the concerns like the petitioner are shifting the sky signs subject to the anticipated permission for shifting and, therefore, the petitioner has shifted the subject sky sign from the existing place to the proposed place and that though there is no provision of law for according such permissions, the Municipal Corporation is according permissions for such shifting. In support of the said submissions, he placed reliance on one such order, dated 09.11.2015, whereby permission was accorded for shifting of a sky sign from

one place to another, however, subject to payment of certain amount. He further submitted that the Municipal Corporation's power to direct to remove the unipole/sky sign is also challenged in the writ petition and that the said issue requires adjudication, as, under the provisions of law, the Municipal Corporation is only entitled to collect penal charges per day but is not empowered to direct to remove the unipole/sky sign. However, he alternatively submits that the writ petition may be disposed of reserving liberty to the petitioner to submit an explanation to the impugned notice, dated 28.11.2017, and keeping open the adjudication of the other contentions raised in the writ petition for determination at an appropriate later stage, if necessary, and if such contentions come to be raised by the petitioner, in future, in any proceeding before this Court or the authority concerned.

Learned standing counsel appearing for the respondents would submit that one of the sky signs erected by the petitioner collapsed and that after such incidents in the City, a Circular, dated 06.08.2016, was issued by the Additional Commissioner (Advt) and that after such Circular was issued, no permissions for shifting were granted and, therefore, the order, dated 09.11.2015, relied upon by the petitioner is of no avail to the petitioner. He would also submit that the representations of the petitioner would be considered and disposed of in accordance with the procedure established by law.

In reply, learned counsel for the petitioner would submit that the hoarding which collapsed is not that of the petitioner but is of some other concern.

Having regard to the facts and submissions, the Writ Petition is disposed of directing the petitioner to submit its explanation to the impugned notice, dated 28.11.2017, within one week from the date of receipt of a copy of this order; on the petitioner making such representation/explanation, the respondent authorities shall consider and dispose of the same along with the earlier representation, dated 24.08.2017, of the petitioner within two (02) weeks thereafter, in strict accordance with the procedure established by law, and communicate the decision taken thereon to the petitioner within a week thereafter. As desired by the learned counsel for the petitioner, the aspect of the Corporation's right to direct the petitioner to remove the unipole/sky sign and the other contentions raised in the writ petition for determination are left open to be determined at an appropriate later stage, if necessary, and if such contentions come to be raised by the petitioner, in future, in any proceeding before this Court or the authority concerned.

There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

M.SEETHARAMA MURTI, J

07.12.2017
Vjl