

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.42526 of 2017

ORDER:

In this writ petition, under Article 226 of the Constitution of India, the challenge is to the notice, dated 30.11.2017, *vide* Notice No.F1/1022/2017, issued by the Commissioner, Peddapalli Municipality, Peddapalli Mandal, Karimnagar District (2nd respondent).

2. I have heard the submissions of Sri *Arun Kumar Doddla*, learned counsel appearing for the petitioner, the learned Government Pleader for Municipal Administration and Urban Development appearing for the 1st respondent, and of Sri *N.Praveen Kumar*, learned Standing Counsel, appearing for the 2nd respondent Municipality. I have perused the material record.

3. In the said notice, it is *inter alia* stated that if the area where the factory is situated is taken to be a residential area, then the establishment of the factory in that area is prohibited and, therefore, the petitioner was required to explain as to why the factory of the petitioner shall not be permitted to be operated with immediate effect. It is also stated in the notice that failing to give an explanation, action will be initiated according to Section 264 of the Andhra Pradesh Municipalities Act, 1965. However, the grievance of the petitioner is that in the last paragraph of the impugned notice, the petitioner was directed to remove the installations erected in the factory within seven (07) days from the date of receipt of notice and to see that the factory shall not be operated with immediate effect.

4. In that view of the matter, the learned counsel for the petitioner submits that though the impugned notice is styled as a notice, it is an order and not a notice.

5. Learned Standing Counsel for the 2nd respondent Municipality, on instructions, would submit that the petitioner may be directed to treat the present notice impugned as a show cause notice and be directed to give an explanation and that the same will be disposed of, in accordance with procedure established by law and that till such exercise is completed, no coercive action against the installations in the factory premises of the petitioner and for closure of the factory of the petitioner would be taken by the 2nd respondent Municipality.

6. Learned counsel for the petitioner endorses the said submissions.

7. Recording the submissions, it is directed that the direction in the impugned notice to remove the installations of the factory and the further direction with regard not operating the factory with immediate effect shall remain suspended. Accordingly, the petitioner is directed to treat the notice as a show cause notice and offer his explanation within a period of two (02) weeks from the date of receipt of a copy of this order; and on the petitioner submitting his explanation, the 2nd respondent shall consider and dispose of the same, in strict accordance with procedure established by law, within a period of four (04) weeks from the date of receipt of the explanation of the petitioner and communicate the decision taken thereon to the petitioner within a week thereafter. Till such exercise is completed, no coercive action shall be taken by the 2nd respondent Municipality in view of the

suspension of the directions in the last paragraph of the impugned notice.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

JUSTICE M. SEETHARAMA MURTI

Date: 19th December, 2017

KL



235

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI**WRIT PETITION No.42526 of 2017**Date: 19th December, 2017

KL