

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

WRIT PETITION No.3700 OF 2018

ORDER:

Heard the learned counsel for petitioner, the learned Government Pleader for Municipal Administration & Urban Development for respondent No.1 and the Standing Counsel Sri N.Praveen Kumar for respondent No.2 offers to appear from the oral instructions and perused the prayer in the writ petition with supporting affidavit and the other material on record. The prayer in the Writ Petition reads as under:

“to issue order or direction more particularly one in the Writ of Mandamus to declare proceedings No.UC No.1/TPS/ 2017 dated 25.01.2018 on the file of respondent No.2 as unjust, unfair, unreasonable and violation of principles of natural justice and to set aside the same and to pass such other order or orders as this Hon’ble Court may deem fit and proper.”

2. Undisputedly, leave about the notice dated 03.11.2017 issued by respondent No.2 to the petitioner; the provisional notice as contemplated under Section 217 of the Telangana Municipalities Act, 1965 (for short, ‘the Act’) was issued in saying that the deviations mentioned specifically in the notice dated 23.12.2017 should be regularized within seven days. It is practically a notice under Section 217(1) of the Act expecting the reply under Section 217(2) of the Act, though it is wrongly mentioned as 217(2) for 217(1) of the Act. The reply given to it on 05.01.2018 by the petitioner simply states despite the specific deviations mentioned in the provisional notice, as if he constructed the building as per the plan and

not even explained regarding the deviations. It is pursuant to which, the impugned order dated 25.01.2018 is passed; no doubt, the same is silent by not referring to anything of the said reply. The reply as referred supra dated 05.01.2018 no way meets the requirement of the proper answer to the show cause notice dated 23.12.2017.

3. Having regard to the above, there is nothing to keep the writ petition pending, but for giving one more opportunity to the petitioner, consequent to the above that within one (1) week from today, to make a fresh representation to said notice, dated 23.12.2017, by treating the same under Section 217(1) of the Act for all purposes by virtue of this order, and if no reply is given within the time supra, it will be taken for all purposes of the provisional notice dated 23.12.2017 deviations are correct to take legal recourse and if any reply submitted, the respondents shall consider and pass appropriate orders thereon and communicate the same to the petitioner before undertaking any action of demolition of the so called deviations.

With the above directions, this Writ Petition is disposed of. No order as to costs. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

Dr. B. SIVA SANKARA RAO, J

06.02.2018
MVA