

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

Writ Appeal No.678 of 2018

And

Writ Petition No.11143 of 2018

Common Judgment: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

This appeal is preferred, under Clause 15 of the Letters Patent, against the interlocutory order passed in I.A. No.1 of 2018 in W.P. No. 11143 of 2018 dated 4.4.2018. The appellants herein are respondents 2 to 4 in the Writ Petition. Respondents 1 to 7 herein filed W.P. No.11143 of 2018 seeking a writ of mandamus to declare the show cause notice dated 31.10.2017, issued by the Assistant City Planner on behalf of the Commissioner, GVMC, as illegal, arbitrary and without jurisdiction.

While power is conferred, under Section 450 of the Greater Hyderabad Municipal Corporation Act, 1955 (hereinafter referred to as "the GHMC Act"), only on the Commissioner, GVMC, Section 119 of the GHMC Act enables the Commissioner to delegate his power. While the power of the Commissioner, under several provisions of the GHMC Act, is said to have been delegated to the Assistant City Planner, the power, under Section 450 of the GHMC Act, has admittedly not been delegated.

Sri S. Lakshminarayana Reddy, learned Standing Counsel for the GVMC, would submit that, since the Assistant City Planner lacks jurisdiction to issue the show cause notice under Section 450 of the GHMC Act, this Court may consider setting aside the show cause notice, granting liberty to the Commissioner, GVMC, if need be, to initiate action afresh under Section 450 of the GHMC Act.

Sri V.V. Satish, learned counsel for the respondent-writ petitioners, would submit that the entire exercise is vitiated by *mala fides*, and the Assistant City Planner is acting at the dictates of a local Corporator. When we asked Sri S. Lakshminarayana Reddy, learned

Standing Counsel for the GVMC, whether these allegations had any basis, he would submit that the Corporator has not even been arrayed as a respondent in the Writ Petition, and the respondent-writ petitioners may not be justified in making such allegations behind the back of the Corporator. Learned Standing Counsel would submit that, in any event, it is not the Assistant City Planner, but the Commissioner, GVMC, who has been conferred the power under Section 450 of the GHMC Act, and such a power, if need be, will only be exercised by the Commissioner, GVMC, and not the Assistant City Planner.

In the light of the submissions of Sri S.Lakshminarayana Reddy, learned Standing Counsel for the GVMC, the show cause notice dated 31.10.2017, issued by the Assistant City Planner, is set aside. The Writ Petition is disposed of making it clear that this order shall not disable the Commissioner, GVMC, if need be, from initiating action against the respondent-writ petitioners, under Section 450 of the GHMC Act, by issuing a show cause notice afresh.

Both the Writ Appeal and the Writ Petition are disposed of accordingly. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(KONGARA VIJAYA LAKSHMI, J)

27th April, 2018

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