

THE HONOURABLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.25338 of 2018

ORDER:-

Heard Sri Ghanta Rama Rao, learned Senior Counsel appearing for Sri Mohd.Islamuddin Ansari, learned Counsel for the petitioner, and Sri L.Venkateswar Rao, learned Standing Counsel for respondent-Municipal Corporation.

An intimation No.881/ACP/TPS/C-15/CZ/GHMC/2018 dated 30.06.2018, issued by the Deputy Commissioner, Circle No.15, GHMC-respondent No.3 is under challenge in the present Writ Petition.

By way of the said intimation letter, the 3rd respondent requested the petitioner herein to select some other alternative site for erection of cell tower and for submission of the documents, on the ground that certain residents gave a complaint.

According to the learned Senior Counsel, the impugned intimation letter is highly illegal, arbitrary, unauthorized and without jurisdiction.

On the other hand, it is submitted by the learned Standing Counsel that obviously on the complaint given by the residents of the locality, the impugned intimation letter came to be issued.

The Government of Telangana issued G.O.Ms.No.96, Municipal Administration & Urban Development (M1) Department, dated 05.08.2015, prescribing the procedure for

submission of applications and for grant of permissions for erection of the cell towers.

According to the learned Senior Counsel, the petitioner herein submitted an application on 13.04.2018 to the respondent-Corporation seeking permission for erection of the cell tower and as no action was taken by the respondent-Corporation, within the stipulated period of thirty days, the petitioner herein submitted a representation on 17.05.2018 proposing to commence the construction. According to the learned Senior Counsel, the reason assigned by the respondent-Corporation in the impugned intimation letter asking the petitioner to select an alternative site for erection of cell tower, is highly illegal, arbitrary and without jurisdiction.

According to Clause (D)(i) of G.O.Ms.No.96, dated 05.08.2015, if no permission or refusal is accorded within 30 days, the permit is deemed to have been accorded, provided that, the said installation shall comply all of these guidelines, including providing of completion certificate.

In the instant case, it is not the case of the respondent-Corporation, as per the Intimation letter, that the petitioner herein did not comply with any of the mandatory requirements, as per the said Governmental Order.

It is also the submission of the learned Senior Counsel that there is no provision for obtaining No Objection Certificate from the neighbours and also the above

Governmental Order does not stipulate the said requirement and that the above Governmental Order further says that any aggrieved citizen can approach the concerned TERM Cell of DOT with regard to grievance of any issues relating to radiation.

Having regard to the Clauses in the Governmental Order, in the considered opinion of this Court, there is no justification on the part of the respondent-Corporation in issuing the impugned intimation letter No.881/ACP/TPS/C-15/CZ/GHMC/2018 dated 30.06.2018, on the ground that there is a complaint made by the neighbours.

With the above observations, the Writ Petition is allowed, setting aside the impugned intimation letter No.881/ACP/TPS/C-15/CZ/GHMC/2018, dated 30.06.2018. However, it is open for the respondent-Corporation to take action, if there are any deviations from mandatory requirements, as per the above said G.O.Ms.No.96, dated 05.08.2015, or other instructions of the Government.

Miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

A.V.SESHA SAI

16th August, 2018.
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