

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.No.25352 of 2018

ORDER:

Heard the learned counsel for the petitioners and Sri Sampath Prabhakar Reddy, learned Standing Counsel for the respondent Municipal Corporation.

2. A notice bearing No.19/TPS/UC/CIR3/EZ/GHMC/2018, dated 16/17-7-2018, issued by the third respondent under Section 452 (1) and 461 (1) of the HMC Act, 1955, asking the petitioners to show cause as to why action should not be initiated while alleging all round setback deviations, is under challenge in the present writ petition.

3. In fact on 26.06.2018, petitioners herein submitted explanation to the above said show-cause notice and paragraph 3 of the said explanation reads as under:

“3. I submit that, as per sanctioned plan, I have to maintain 1.5 mts front set back and one meter on all other sides. In front I maintained 8 to 12.5 feet, on west 1.5 to 6 feet and south 3 feet, north 4.5 to 10 feet. On average, in fact we maintained double the set backs required as per sanctioned plan. Due to topography of site and as it is cross site, one corner little bit less and one corner more set backs were maintained. As such, total set backs are more than required under law.”

4. A perusal of the impugned notice issued by the third respondent reveals that the explanation submitted by the petitioner herein was not properly taken into consideration by the respondent Municipal Corporation. In the considered opinion of this Court, the said action on the part of the respondents is violative of the principles of natural justice. Having received the explanation, it is the obligation of the respondent Corporation to consider the contents of the explanation also from proper perspective. In

the instant case, the same is obviously absent. In view of the same, this Court deems it appropriate to remit the matter to the third respondent for fresh consideration.

5. For the aforesaid reasons, the writ petition is allowed, setting aside the notice bearing No.19/TPS/UC/CIR3/EZ/GHMC/2018, dated 16/17-7-2018, issued by the third respondent under Section 452 (1) and 461 (1) of the HMC Act, 1955 and the third respondent is directed to consider the contents of the explanation dated 26.06.2018 and pass appropriate orders, in accordance with law. As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

Date:20.07.2018
grk



A.V.SESHA SAI, J



THE HON'BLE SRI JUSTICE A.V.SESHA SAI



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Dated: 20.07.2018

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