

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

WRIT PETITION No.28208 of 2018

ORDER:

Heard learned counsel for the petitioner and Sri D.Ramesh and Sri G.Seshadri, learned Standing Counsel, appearing for the respondent Nos.3 and 4 respectively.

Notice, bearing Rc.No.CRDA-12-21(51)/200/2018, dated 28.07.2018, issued by the third respondent herein, under Section 115 (3) of the A.P.Capital Regional Development Authority Act, 2014 (for brevity, 'the Act'), is under challenge in the present Writ Petition.

The third respondent authorities issued a show cause notice, vide proceedings in Rc.No.CRDA-1202(51)/200/2018, dated 10.07.2018, under Section 116 (1) of the Act, pointing out the following alleged violation:

“Constructing two (2 Nos.) A.C.Sheet Roof Residential building consisting of Ground floor in R.S.No.17/3C & 110 of Gollapudi village, Vijayawada Rural Mandal with an extent of 1919.46 sq.m to the plan approved by gram panchayat vide D.Dis.Nos.961/16 & 962/16, dated 30.09.2016, as against the powers delegated by APCRDA”.

Petitioner herein submitted an explanation on 17.07.2018. Now, by way of the order under challenge, the third respondent authority confirmed the provisional notice and directed demolition of the subject constructions.

According to the learned counsel for the petitioner, the action impugned is highly illegal, arbitrary, unreasonable and violative of the principles of natural justice. In elaboration, it is further submitted by the learned counsel that, without even advertng to the contents of the explanation, the impugned order came to be passed by the third respondent herein.

On the other hand, it is submitted by the learned Standing Counsel, that there is no illegality nor there exists any infirmity in the impugned action, and, only after affording opportunity to the petitioner herein, the third respondent passed the impugned order, as such, there cannot be any complaint of violation of the principles of natural justice.

A perusal of the impugned order clearly discloses that, except stating that the explanation, offered by the petitioner herein, is not satisfactory, the third respondent did not consider the contents of the explanation offered by the petitioner herein. This exercise, undertaken by the third respondent, cannot be sustained in the eye of law. As the impugned order is completely bereft of any valid reasons, in the considered opinion of this Court, this matter requires re-consideration by the third respondent herein in accordance with law.

In view of the above, Writ Petition is allowed, setting aside the impugned notice, bearing Rc.No.CRDA-12-21(51)/200/2018, dated 28.07.2018, issued by the third

respondent herein, and the matter is remanded to the third respondent for fresh consideration of the issue, after considering the explanation offered by the petitioner herein, and to pass appropriate orders. There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

A.V.SESHA SAI, J

09th August, 2018.
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