

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 19140 OF 2009

ORDER :

This Writ Petition is filed questioning the notice dated 02.09.2009 of the 3rd respondent Deputy Commissioner, Quthbullapur, Circle 15, GHMC, directing the petitioner to remove the cell tower equipment erected on rooftop at H.No. 8-165/A, Prasoon Nagar, HMT Road, Chintal on the ground that the report of the structural safety consultants approved by the Greater Hyderabad Municipal Corporation is to the effect that the tower is unsafe when checked as per guiding codes of practice (ie. BIS) and norms.

Though the Writ Petition is of 2009, no counter-affidavit is filed, yet.

Learned counsel for the petitioner contends that, at no point of time, the petitioner was furnished with the so-called report and that they had taken all precautions before erecting cell towers after obtaining permission. It is further contended that though they requested for copy of the report to be furnished *vide* letter dated 05.09.2009, so far, the same was not furnished. Directing the petitioner to remove the cell tower is in violation of the principles of natural justice and also the mandatory procedure that is required to be followed in terms of Section 459 of the Greater Hyderabad Municipal Corporation Act, contends the learned counsel.

This is a case where no counter-affidavit is filed denying the specific allegations of the petitioner. Inasmuch as, as on date, there is no denial to the averment that the petitioner was not given any notice and the technical report said to have been obtained with

respect to safety of structures, the respondents cannot be allowed to proceed further. The mere fact that from 02.09.2000 till date, no untoward incident was happened, *prima-facie*, indicates that there was no warrant for taking any action, in haste, without issuing the notice and calling for an explanation from the petitioner.

In those circumstances, the Writ Petition is disposed of in terms of the interim order dated 10.09.2009. The respondents are directed to supply the copy of the structural safety report and thereafter, considering the explanation that may be submitted by the petitioner, to take further action. Till such time, no coercive steps shall be taken against the petitioner. No costs.

Consequently, the miscellaneous Applications, if any shall stand closed.

20th July 2018

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CHALLA KODANDA RAM, J

