

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

W.P.No.31143 of 2018

ORDER:

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

2. Vide proceedings No.08/TP/PER/HO/TPS/GHMC/CT/2017/279, dated 14.03.2017, the respondent Corporation granted provisional clearance in favour of the petitioner herein for erection of Roof Top Tower (RTT) and Ground Based Tower (GBT). The Corporation issued a show-cause notice vide proceedings No.E-127966/HO/TPS/GHMC/CT/2017/240, dated 18.04.2017, asking the petitioner herein to show-cause as to why the provisional permission granted for erection of cell tower should not be cancelled. In response to the said show-cause notice, on 11.05.2017, petitioner herein submitted an explanation and thereafter on 27.05.2017 a final notice was also issued vide proceedings No.E127966/HO/TPS/GHMC/CT/2017341 revoking the permission granted. The said order revoking the permission was subject matter of W.P.No.24951 of 2017 and this Court disposed of the said writ petition by way of an order dated 27.07.2017 and the operative portion of the said order reads as under:

“In view of the above facts and circumstances of the case, without going into the merits of the case, the impugned order is set aside on the ground of violation of principles of natural justice. The 1st respondent is directed to pass orders after considering the explanation submitted by the petitioner in pursuance to the notice dated 08-04-2017 after giving opportunity of hearing to the petitioner. Since the impugned order is set aside, the respondents are obligated to remove the seal and entitled to take action after final orders are passed.

Accordingly, the writ petition is disposed of. As a sequel to the disposal of the writ petition, miscellaneous petitions, if any, pending shall stand closed.”

3. Thereafter, petitioner herein on 21.11.2017 submitted a representation/explanation to the respondents. Subsequently, when the power supply was disconnected at the instance of the Corporation by the Telangana State Southern Power Distribution Company Limited, writ petition

in W.P.No.15820 of 2018 was filed before this Court and in I.A.No.1 of 2018, this Court granted interim order on 27th April, 2018, directing the respondents therein to restore the power supply to the tower erected at H.No.6-48/34 & 35, situated at Raju Colony, Balanagar, Hyderabad and the said writ petition is still pending. Now, by way of the impugned Lr.No.222/TPS/CIR-24/GHMC/2018-1 dated 24.08.2018, the Deputy Commissioner, Circle-24, Kukatpally, GHMC fixed three days time for removal.

4. A perusal of the said order, in vivid and clear terms, reveals that the respondent authorities did neither consider the explanation dated 11.05.2017 nor considered the representation dated 21.11.2017 submitted by the petitioner herein pursuant to the orders of this Court in W.P.No.24951 of 2017 and passed the impugned orders. It is significant to note that in W.P.No.24951 of 2017, this Court while disposing of the writ petition directed the respondent Corporation to pass orders after considering the explanation and after giving opportunity of hearing to the petitioner herein. In the considered opinion of this Court, the said directions are followed in breach. On the said ground alone, the writ petition is liable to be allowed.

5. Accordingly, the writ petition is allowed, setting aside Lr.No.222/TPS/CIR-24/GHMC/2018-1, dated 24.08.201, issued by the Deputy Commissioner, Circle-24, Kukatpally, GHMC. However, it is open for the respondent authorities to pass orders, after considering the explanations offered by the petitioner herein and as per the above orders in W.P.No.24951 of 2017. As a sequel, the miscellaneous petitions, if any, shall stand disposed of. There shall be no order as to costs.

A.V.SESHA SAI, J

Date:29.08.2018
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THE HON'BLE SRI JUSTICE A.V.SESHA SAI



W.P.No.31143 of 2018

Dated 29.08.2018

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