

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

I.A.No.2 of 2018 in I.A.No.1 of 2018 in WP.No.31474 of 2018

And

WP.No.31474 of 2018

COMMON ORDER :

Heard the counsel for petitioner, and Sri G. Narender Reddy, counsel for respondent nos.2 and 3.

2. The petitioner has assailed in this Writ Petition the notice dt.25.08.2018 issued by 3rd respondent asking petitioner to remove the structures erected by him illegally without obtaining permission from the Gram Panchayat.

3. Power under Section 121 of the Andhra Pradesh Panchayat Raj Act, 1994 is invoked, corresponding to Section 114 of the Telangana State Panchayat Raj Act, 1994.

4. The principal contention of counsel for petitioner is that there was no prior show-cause notice issued to petitioner, and straightaway the impugned order directs petitioner to remove the structures erected by him; that the construction made is in the nature of a cattle shed which is not treated as a building under Section 2(2) of the Telangana State Panchayat Raj Act, 2018; and he does not require any permission under Section 114 of the Act from the 3rd respondent.

5. The fact that there was no prior show-cause notice issued to petitioner is not disputed by the learned Standing Counsel appearing for respondent nos.2 and 3.

6. Since the impugned order visits civil consequences on the petitioner, the respondents are bound to comply with principles of natural justice and issue notice to petitioner to show-cause why the construction in question should not be removed, and after the petitioner submits his explanation thereto, pass a reasoned orders in accordance with the provisions of the Act and communicate it to the petitioner.

7. Therefore, the Writ Petition is allowed. The impugned order dt.25.08.2018 of the 3rd respondent is set aside. The 3rd respondent is directed to issue a show-cause notice to petitioner in regard to the construction made by petitioner; the petitioner is granted three (03) weeks' time from the date of receipt of copy of the show-cause notice to submit explanation to the same; and after the explanation is submitted, the 3rd respondent shall pass a reasoned order in accordance with the provisions of the Act and communicate his decision thereon to petitioner. No order as to costs.

8. It is open to petitioner to raise all defences open to him.

9. Consequently, I.A.No.2 of 2018 in I.A.No.1 of 2018 in WP.No.31474 of 2018 is dismissed.

10. As a sequel, miscellaneous petitions pending if any in this Writ Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 05.10.2018

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