

HON'BLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No.31964 OF 2018

ORDER:

The present Writ Petition is filed under Article 226 of the Constitution of India by the petitioner challenging the proceedings in Rc.No.CRDA-12029(32)/8/2018, dated 22.08.2018, issued by respondent No.3 - Chief City Planner, Capital Region Development Authority (APCRDA), Vijayawada, Andhra Pradesh State, to the extent of directing him to comply with condition 'd'.

2. Heard both sides and Perused the material available on record.

3. The condition 'd' of the impugned proceedings reads as follows:

“NOC from Fire Service Department need to be submitted as per section 13 (1) of AP fire service Act 1999 along with its amendment dated 13/04/2006 and as per clause 209.7 of Capital City Amaravati ZR.”

4. It is the submission of learned counsel for the petitioner that the said condition should not have been imposed upon the petitioner by the respondents, in view of the language employed in the provisions of Section 13(1) of the Andhra Pradesh Fire Service Act, 1999, read with regulation '209.7' of the Amaravati Capital City Zoning Regulations, as amended on 04.07.2018. The amended regulation 209.7 reads as under:

“The Appendix-II of the Amaravati Capital Cit Zoning Regulations under Building type, the Maximum Building Height (m) in Residential use excludes height of parking floors in plots having extent of 300 sq.mts and above. Height of parking floor shall not be less than 2.5m. in case of parking floors where mechanical system and lift are provided, height of such parking floor shall not be less than 4.5 m. Parking floors in high rise buildings are also excluded from calculation of height of building.”

While referring to the above amended Zonal Regulation, it is submitted by the learned counsel for the petitioner that height of the parking floors is to be excluded from calculation of height of the building, as the plot area in the instant case is more than 300 square meters. The said aspect is not disputed by the learned Standing Counsel. Therefore, the impugned proceedings to the extent of imposing condition ‘d’ for compliance are hereby declared as illegal and arbitrary.

5. Accordingly, the present Writ Petition is allowed, setting aside the condition ‘d’ of the impugned proceedings in Rc.No.CRDA-12029(32)/8/2018, dated 22.08.2018, issued by respondent No.3, and consequently, there shall be a direction to the respondents herein to process the building application of the petitioner herein without insisting on condition ‘d’ as mentioned supra and subject to compliance of all other statutory requirements. No order as to costs.

As a sequel, Miscellaneous Petitions, if any, pending in the present Writ Petition, stand closed.

A. V. SESA SAI, J

September 20, 2018
Mgr

