

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

W.P.No.36766 of 2018

ORDER:

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

2. A notice bearing No.258/TPS/C21/GHMC/2018 dated 4.10.2018 issued under Section 636 of the Hyderabad Municipal Corporation Act, 1955 is under challenge in the present writ petition.

3. The Respondent Municipal Corporation granted building permission in favour of the petitioner herein vide Permit No.20504/DC/WZ/Cir-12/2013 dated 19.2.2013. Thereafter, a notice under Section 452 (2) of the Act was also issued vide proceedings No.258/TPS/GHMC/C-21/2018 dated 10.08.2018 calling upon the petitioner herein to show-cause. In response to the same, on 27.8.2018 petitioner herein submitted his explanation. Now, by way of impugned notice dated 4.10.2018 issued under Section 636 of the Act, the Deputy Commissioner, Circle No.21, GHMC-3rd respondent directed the petitioner herein to remove the alleged unauthorised constructions. According to the learned counsel for the petitioner, the said action on the part of the respondent authorities is highly illegal, arbitrary and violative of principles of natural justice.

4. A perusal of the material available before this Court manifestly disclose that in response to the notice issued under Section 452 (2) of the Act, the petitioner herein submitted explanation dated 27.7.2018 and the said explanation was received and acknowledged by the office of the Corporation. Therefore, having called for the explanation and having acknowledged the

same, it is incumbent on the part of the Respondent Corporation to consider the contents of the same. In the instant case, the Commissioner states that no such explanation was received. On this ground alone, the impugned order is liable to be set aside.

5. Accordingly, the writ petition is allowed, setting aside the impugned notice bearing No.258/TPS/C21/GHMC/2018, dated 4.10.2018 and it is open for the respondent Municipal Corporation to pass an order afresh after considering the explanation dated 27.8.2018 submitted by the petitioner herein, strictly in accordance with law. As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

Date: 8.10.2018
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A.V.SESHA SAI, J

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