

HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.No.39177 of 2018

ORDER:-

Heard learned Counsel appearing for the petitioner and the learned Government Pleader for Home for the respondents.

According to the petitioner, he is a Dentist and applied for *no objection certificate* from the Fire Department in respect of premises bearing D.No.4-1-156/1, Opp.Bus Stand, Sri Kalahasty Bypass Road, Naidupeta, SPSR Nellore District. The 3rd respondent vide file No.1397/NLR/RFO/2018, dated 11.01.2018, granted *no objection certificate* for a period of one year. Thereafter, by way of an Order, vide proceedings Rc.No.1397/NLR/RFO/SR/2018, dated 10.05.2018, the 3rd respondent cancelled the said *no objection certificate*.

This Writ Petition challenges the validity and legal sustainability of the said Order passed by the 3rd respondent canceling *no objection certificate* granted earlier in favour of the petitioner herein.

The principal contention advanced in the present Writ Petition is that earlier after duly following the procedure, the 3rd respondent granted *no objection certificate* but without issuing any show cause notice, the 3rd respondent cancelled the said *no objection certificate* by way of the impugned Order.

Today, when the matter is taken up, parawise remarks received from the Office of the 3rd respondent are placed on record by the learned Government Pleader. The said remarks to the extent of their relevance to the present issue read as under:-

C) & D) It is a fact that the NOC was issued on the online application details and on complaints received, Inspection Committee consisted of District Fire Office, Asst.District Fire Officer of SPSR Nellore District and SFO of Naidpuet was appointed, who have physically inspected the premises and the petitioner also present at the time of inspection and on the findings of the Inspection Committee of certain defects as observed the earlier NOC issued on 11.01.2018 was cancelled. The cancellation order, the details of the deviations have been informed and the petitioner is at liberty to contest against such findings and resubmit his application for consideration. The observations as informed in the cancellation orders, dated 10.05.2018 are reproduced hereunder for better appraisal of the case.

Para No.5: In reply to this paragraph, it is also state that the petitioner, who is represented dated 22.08.2018 submitted an Appeal, requesting to reconsider his case and to issue the NOC, but not submitted any rectification details as pointed out in the cancellation orders, dated 10.05.2018. Therefore, his Appeal was returned and informed through this Office letter Rc.No.3520/MSB/SR/NLR/2018, dated 01.11.2018.

It is also required to be noted that one Dr.K.Kranti filed W.P.No.11412 of 2018 and in that Writ Petition, this Court passed the following interim Order in I.A.No.3 of 2018:-

“Learned Counsel for the petitioner fairly submits that there is no representation submitted by the petitioner to the respondents 2 and 3 requesting to initiate action against the respondents 12 and 13 and that though some representations were given there is no proof showing that such representations

are duly served on the respondents 2 and 3. He, therefore, seeks to reserve liberty to the petitioner, pending disposal of the Writ Petition, to submit representation to the respondents 2 and 3.

Accordingly, liberty is reserved to the petitioner to submit fresh representation to the respondents 2 and 3 with supporting documents, if any. In the event the petitioner submits any such representation, it is needless to state that the said respondents shall consider and dispose of the same within a reasonable time.”

A perusal of the order impugned in the present Writ Petition reveals that the said Writ Petition is shown as 3rd reference in the impugned Order. While referring to the said Order, it is submitted by the learned Counsel for the petitioner that this Court directed the respondents only to consider the representation, in accordance with law.

It is a settled and well-established principle of law that any action, which has civil consequences, must necessarily be preceded by notice and opportunity of being heard to the persons likely to be affected by such action, otherwise, the same would tantamount to violation of principles of natural justice. In the instant case, the said principles is followed in breach. There is absolutely no material on record, even as per the parawise remarks, to show that a show cause notice was issued to the petitioner herein before resorting to the impugned action. In the considered opinion of this Court, the impugned Order is in patent violation of the principles of natural justice and on this ground, the impugned Order is liable to be set aside.

Accordingly, the Writ Petition is allowed, setting aside the impugned Order bearing Rc.No.1397/NLR/RFO/SR/2018, dated 10.05.2018, passed by the 3rd respondent. However, it is open for the respondent-authorities to issue a notice and take further action, strictly in accordance with law.

Miscellaneous petitions pending, if any, shall stand disposed of. There shall be no order as to costs.

A.V.Sesha Sai, J

Date:06.12.2018
smr

