

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 1349 of 2019

ORDER :

This Writ Petition is filed seeking a *mandamus* to declare the inaction of Respondents 2 to 5 against the unauthorised construction of YMS Function Hall in H. No. 60-09/3 in Survey No. 147, Patwari Enclave, Quthbullapur Village and Mandal, Medchal-Malkajgiri District by the 7th respondent and also in considering the petitioner's representation dated 13.11.2018, as arbitrary and illegal.

On 25.01.2019, this Court, while issuing rule nisi, permitted the petitioner to serve notice on the 7th respondent, pursuant to which, the petitioner filed proof of service *vide* memo dated 08.03.2019 evidencing service of notice on the 7th respondent on 07.02.2019. However, the 7th respondent is neither represented through any advocate nor appeared in person. Hence, he was set *ex parte*.

The case of the petitioner is that the 7th respondent is running the subject function hall without obtaining permission, on account of which, residents of the vicinity are facing lot of disturbance like traffic chaos, sound pollution, litter being thrown on the streets, etcetera. The petitioner asserts that he made the complaint on 13.11.2018 to take necessary action against the unauthorised construction made by the 7th respondent.

On behalf of Respondents 2 to 5, a counter-affidavit was filed by the 5th respondent - Sri M.B. Gajanandan, S/o P.M. Bhaskaran, Assistant City Planner, Circle - 26. In the said counter-affidavit, it is specifically asserted that the function hall

was constructed more than ten years ago and no fresh construction is made at present. It is further asserted that notice came to be issued to the 7th respondent to produce ownership and other relevant documents of the subject hall, however, he has not submitted any documents, hence, their office issued notice dated 01.05.2018 and 22.02.2019 to him to furnish the documents but he failed to do so. However, it is further asserted, the 7th respondent, through his advocate, filed the Application under the Right to Information Act on 28.02.2019 to furnish the documents of M/s YMS Function Hall for which, the respondent Corporation *vide* letter dated 06.03.2019 issued information stating that records were verified but the particulars are not available in the Office. There against, the 7th respondent filed an Appeal before the Appellate Authority – Zonal Commissioner with similar request and the same reply was furnished on 16.04.2019. As the 7th respondent had failed to furnish the documents, the Corporation issued notice dated 26.03.2019 under Sections 452(1) and 461(1) of the Greater Hyderabad Municipal Corporation Act, 1955 and thereafter, on account of election duties entrusted to the authorities, no action could be taken.

Heard learned counsel for the petitioner, Sri Chatla Madhu, learned Standing Counsel for the respondent Corporation and Sri V. Narasimha Goud, learned Standing Counsel for the 6th respondent Authority.

Having regard to the facts of the present case, particularly the fact that the function hall was constructed more than ten years prior to filing the Writ Petition and no further construction is made at present, it would be appropriate to direct the respondent

Corporation to attend the complaint of the petitioner with regard to public nuisance being caused on account of running of function hall by the 7th respondent.

In those circumstances, the Writ Petition is disposed of with a direction to the respondent Corporation to ensure that no public nuisance is caused due to running of the function hall and that the function hall is used for the purpose for which trade licence, if any was granted by the Municipal Corporation. If no trade licence is granted, till such time it is granted, for specific purpose, the respondent authorities shall ensure sealing of the property. No costs.

Consequently, the miscellaneous Applications, if any shall stand closed.

CHALLA KODANDA RAM, J

24th October 2019

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