

THE HON'BLE THE CHIEF JUSTICE SRI THOTTATHIL B. RADHAKRISHNAN
AND
THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT APPEAL No.164 of 2019
AND
WRIT PETITION Nos.2046 and 2905 of 2019

COMMON JUDGMENT: (Per the Hon'ble Sri Justice A.Rajasheker Reddy)

This Writ Appeal is filed against the order of the learned single Judge dismissing the Writ Petition in W.P.No.2905 of 2019, dated 13.02.2019, on the ground that the writ petitioner had already instituted W.P.No.2046 of 2019 against same cause of action and that the writ petitioner could have moved the application in the said Writ Petition itself.

2. Learned counsel for the appellant and the learned counsel for the writ petitioner in the W.P.No.2046 of 2019 submit that, though the show cause notice was issued and explanation was filed, the impugned show cause notices do not contain any reasons worth mentioning and the said proceedings do not make out any sense, as such there is no application of mind. Though the impugned proceedings in the form of notices are devoid of reasons, it is nothing but violation of principles of natural justice.

3. In this case it is to be seen that after issuing the show cause notice, the writ petitioner submitted explanation. The notice, dated 09.01.2019 was issued referring to the explanation of the petitioner and that he should remove the structures. But, that proceedings does not contain any reasons worth capable of understanding. As such, the writ petitioner filed W.P.No.2046 of 2019. A reading of the proceedings, dated 09.01.2019 and 09.02.2019, shows that, though it is stated to be in the form of a notice, but it is stated that the

explanation of the writ petitioner was considered and the writ petitioner was asked to remove the structures. In both proceedings, no reasons worth mentioning are noted and that order does not make any sense and they are exactly identical.

4. In view of the same, the notice, dated 09.01.2019, and the notice, dated 09.02.2019, are set aside. Since the writ petitioner had already filed the explanation, it is for the respondents to pass appropriate orders on the explanation filed by the writ petitioner after affording an opportunity of hearing to the writ petitioner. It is also open to the writ petitioner to file further explanation, if any, within a period of two weeks from today. The respondents are directed to consider the explanation of the writ petitioner and pass appropriate orders within a period of four weeks from the date of receipt of a copy of this order after granting opportunity of hearing. Till then, no coercive steps shall be taken against the writ petitioner and the writ petitioner also shall not carry out any construction.

5. The Writ Appeal and the Writ Petitions are allowed to the extent indicated above.

The miscellaneous petitions pending in these matters, if any, shall stand closed. There shall be no order as to costs.

THOTTATHIL B. RADHAKRISHNAN, CJ

A.RAJASHEKER REDDY, J

11.03.2019
vs