

HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.105 of 2020

ORDER:

On 31.07.2019 a final notice under Sections 340 and 360 of the Telangana State Municipalities Act, 1965 (for brevity "the Act") was issued alleging that the petitioner was undertaking an unauthorized construction of compound wall in House bearing No.17-49, Shivalayam Veedhi, Narsapur Town and Mandal, Medak District, in contravention of the conditions laid down under the above sections of the Act and called upon the petitioner to submit explanation as directed by this Court vide order dt.16.04.2019 in W.P.No.7108 of 2019. Challenging the said final notice dt.31.07.2019, the petitioner filed W.P.No.17209 of 2019. This Court, taking note of the fact that the allegation levelled against the petitioner was only that he was making construction without permission, disposed of the said writ petition directing the respondent Municipal authorities to consider the explanation submitted by the petitioner and not to take any coercive action against the petitioner without considering the explanation submitted by the petitioner. On 06.08.2019, the petitioner submitted his explanation, in which he asserted that he was granted building permission and he was undertaking construction strictly in accordance with the

building permission granted to him. In the final order dt.31.12.2019, which is now impugned in the present writ petition, the Municipal Commissioner holds that the building permission granted to the petitioner is cancelled and, therefore, the construction made by him is unauthorized. He further holds that the petitioner occupied the public road and constructed the compound wall on the public road, therefore, the same is to be removed.

2. According to the learned counsel for the petitioner, the petitioner was not issued a copy of cancellation of building permission granted to him and he was not aware of any such steps taken by the respondent authorities. He further submits that inspite of the directions issued by this Court, the objections filed by the petitioner were not considered.

3. From a reading of the final notice issued on 31.07.2019, it is seen that there was no mention of the alleged cancellation of the building permission and when that permission was cancelled and whether such cancellation of building permission was as per the procedure prescribed under law. Only in the final order now impugned, there is a mention of such cancellation of building permission. According to the learned counsel for the petitioner, the building permission was never cancelled by affording an opportunity to the petitioner.

4. Further, from the order of this Court passed in W.P.No.17209 of 2019, dt.13.08.2019, it is seen that this Court directed the respondent authorities to consider the explanation submitted by the petitioner. However, from a reading of the order impugned in this writ petition, it is seen that except referring to the cancellation of building permission, there is no discussion as to how the explanation offered by the petitioner was dealt with. Therefore, the impugned order is unsustainable and the same is accordingly set aside and the matter is remanded to the Commissioner of respondent Municipality. He shall look into the grievance of the petitioner and if the building permission is already cancelled, the document relating to such cancellation shall be furnished to the petitioner and the petitioner also be informed about the steps taken before cancellation of the building permission. On furnishing of such document, the petitioner is also entitled to file fresh objections and on due consideration of the objections that may be filed by the petitioner, appropriate decision be taken in accordance with law. Till then, no coercive action shall be taken against the petitioner. This entire exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order.

5. Accordingly, this writ petition is allowed. No order as to costs.

6. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

JUSTICE P. NAVEEN RAO

08.01.2020.

Msr



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