

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

W.P.NO.4014 OF 2020

ORDER

As the 2nd respondent - Tahsildar, Secunderabad, informed that interest of the Government in the subject land is *sub judice* before this court, and as the petitioner has also not produced 'No Objection Certificate' (NOC) from the District Collector, the building permission application of the petitioner was returned by the 6th respondent – Secunderabad Cantonment Board, represented by its Deputy chief Executive Officer, vide Lr.No.SCB/EB/New H.No's.1-19-1, 1-19-2, 1-19/3/454/37 dated 06.02.2020. Aggrieved by the same, the present writ petition is filed.

Learned counsel appearing for the petitioner submits that it is settled law that the Cantonment Board cannot insisting for production of NOC from the District Collector for sanction of building permission. He submits that in identical facts and circumstances, when the Cantonment Board insisted for production of NOC for grant of building permission, learned single Judges of this court in W.P.No.11091 of 2006 dated 19.06.2006, W.P.No.361 of 2012 dated 28.01.2013, W.P.No.21260 of 2006 dated 30.10.2007, and I.A.No.1 of 2018 in W.P.No.26035 of 2018, held that rejection of the application of the petitioners therein for non-production of NOC from the revenue authorities, is not sustainable, and the petitioners therein were permitted to resubmit a fresh plan in conformity with the sanctioned layout and the Cantonment Board was directed to reconsider the same in accordance with law. Learned counsel submits that similar order may be passed in the present writ petition.

Sri K.R.Koteshwara Rao, learned Standing Counsel for respondents 6 and 7 – Cantonment Board, could not dispute the above submission of the learned counsel for the petitioner, but, however, submits that the 2nd respondent – Tahsildar, vide Lr.No.B/10124/2015 dated 06.12.23019 informed that

Government has interest in the subject property and the case in this regard to pending before the High Court, therefore, he asked not to grant any permission. However, he submits that if the petitioner submits fresh application, respondent No.6 will consider the same in accordance with law.

Heard learned Assistant Government Pleader for Revenue for respondents 1 to 5.

As per the judgments relied on by the counsel for the petitioner, Cantonment Board cannot insist for production of NOC from the District Collector, and since one of the grounds for rejection of the application of the petitioner for building construction permission, was non-production of NOC, the same cannot be sustained.

Having regard to the facts and circumstances of the case and the submission of the learned counsel, the impugned letter dated 06.02.2020, is set aside, and the petitioner is given liberty to file fresh application in conformity with the sanctioned layout. Within four weeks of such submission, and the petitioner complying with all other legal requirements, the respondent No.6, shall consider same in accordance with law, after considering the objections, if any, raised, and communicate the decision to the petitioner.

Writ petition is accordingly allowed to the extent indicated above.

Interlocutory applications pending, if any, shall stand closed. No order as to costs.

A.RAJASHEKER REDDY,J

DATE:03—03—2020

AVS