

HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION Nos.29284 of 2019 and 77 of 2020

COMMON ORDER:

The writ petitions are filed challenging the order of the Commissioner, Greater Hyderabad Municipal Corporation, made under Section 450 of the Greater Hyderabad Municipal Corporation Act.

2. This Court is not recording the details of various aspects, as the issue involved is with regard to the illegality noticed *per se* in the decision made by the respondent – Corporation.

3. According to the learned counsel for the petitioners, Sri Dana Kishore, IAS, was the Commissioner, GHMC, when the hearing was taken up on 20.07.2019. After the said hearing, he was transferred and relieved on 26.08.2019. Before he was relieved from the office of the Commissioner, GHMC, no decision was made. The incumbent Commissioner passed the impugned order in December 2019 by referring to the hearing conducted by the then Commissioner on 20.07.2019. According to the learned counsel, the Officer, who heard the parties, more particularly, where the order would have civil and evil consequences, alone is to pass the order, but not some other authority. In the instant case, the principle laid down by the Hon'ble Supreme Court in the case of UNION OF INDIA v. SHIV RAJ¹ is attracted on all fours and the order is liable to be set aside on this ground alone.

4. Learned standing counsel does not dispute the principle of law on the issue and also the fact that Sri Dana Kishore, IAS,

¹ (2014) 6 SCC 564

was transferred on 26.08.2019 and the impugned orders are passed by the successor, who was not the Officer, who heard the petitioners.

5. In view thereof and having regard to the law laid down by the Supreme Court in the decision referred to supra, the orders impugned herein are not valid in law and are liable to be set aside and are accordingly set aside. The matters are remitted to the Commissioner, GHMC. He shall afford an opportunity of hearing to the petitioners and then decide the issue on due consideration of the submissions of the petitioners. On remand, pending consideration of the issue and passing of final orders, the respondent No.2 – Corporation shall not take any coercive steps against the petitioners.

The writ petitions are allowed. As a sequel, the miscellaneous applications, if any pending, shall stand closed. There shall be no order as to costs.

January 9, 2020
DSK

P. NAVEEN RAO, J

