

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

**WRIT PETITION Nos.20398, 20435, 21004, 22496, 22549,
27801, 28146, 29019, 29200 and 32665 of 2021**

COMMON ORDER:

Since the issue involved and the point that arises for determination in all these writ petitions are identical, all these writ petitions are taken up together and are being disposed of by this common order.

2. W.P.Nos.20398, 20435, 21004, 22496, 22549, 27801, 28146, 29019, 29200 and 32665 of 2021 are filed by the petitioners, challenging the revocation letters *vide* letter No.37747/GHMC/2877/2021, dated 13.05.2021; No.41444/GHMC/ 3244/2021, dated 28.06.2021; No.59116/GHMC/6222/2021, dated 04.08.2021; No.58960/GHMC/6202/2021, dated 17.08.2021; No.65762/GHMC/7500/2021, dated 21.08.2021; No.71482/GHMC/ 8570/2021, dated 02.09.2021; No.52576/GHMC/4915/2021, dated 16.07.2021; No.10098/GHMC/0182/2021, dated 11.02.2021; No. 10275/GHMC/ 0195/2021, dated 11.02.2021; and No.89893/GHMC/ 12783/2021, dated 06.11.2021, whereby, the building permissions granted by respondent authorities for construction of buildings over the respective lands belonging to the petitioners, were revoked.

3. Heard the learned counsel for petitioners in all these writ petitions, the learned Special Government Pleader appearing for the respondents in all the writ petitions and perused the record. With the consent of both the parties, these writ petitions are being disposed of at the admission stage.

4. Learned counsel for the petitioners in all these writ petitions would contend that issuance of impugned revocation letters by the respondent authorities is illegal, arbitrary and against the principles of natural justice. The petitioners made online applications for permission to construct buildings on their lands under the relevant provisions of Telangana State Building Permission Approval and Self Certification System Act, 2020 (for short, 'TS-bPASS Act') and the rules made thereunder and the respondent authorities accorded permission for construction of houses. The petitioners have complied all the requirements and did not violate any conditions. They did not misrepresent the facts while obtaining permission, as alleged by the respondent authorities. However, the respondent authorities, without following the principles of natural justice and in a highhanded manner, revoked the building permissions granted to the petitioners. Further, there is no mention in the impugned revocation letters with regard to serving notices on the petitioners, calling for explanation or affording an opportunity of hearing to them while revoking the building permissions. Revocation of building permission is a punitive action and any punitive action should be preceded by the principles of natural justice. The respondent authorities are bound to adhere to the principles of natural justice and since they have failed to adhere to the same, the impugned revocation letters are liable to be set aside and ultimately, prayed to allow the writ petitions as prayed for.

5. On the other hand, the learned Special Government Pleader appearing on behalf of the Advocate General for the respondents, on instructions, would submit that in view of the facts and circumstances

of these cases, the impugned revocation letters passed by the respondent authorities against the petitioners stand withdrawn to the extent of revocation of permission to construct buildings. However, the objections pointed out in the impugned revocation letters holds good and the petitioners are liable to give explanation to the said objections. Once the petitioners submit their explanations to the said objections, the respondent authorities would examine the same and dispose of their applications for building permissions, in terms of TS-bPASS Act and G.O.Ms.No.200, Municipal Administration and Urban Development (Plg.III) Department, Government of Telangana, dated 16.11.2020.

6. A perusal of the material placed on record reveals that the petitioners herein were granted building permissions for construction of residential buildings in their respective house plots under the relevant provisions of TS-bPASS Act and the rules made thereunder, based on the self-certification given by them and on payment of requisite charges. However, the said building permissions were revoked by the respondent authorities *vide* impugned revocation letters on the ground that building permissions were obtained by misrepresenting the facts. The petitioners were also directed not to proceed with any type of construction work, failing which, necessary action would be taken against them as per the provisions of TS-bPASS Act and the same is liable to be treated as un-authorized constructions.

7. As rightly pointed out by the learned counsel for the petitioners, there is no mention in the impugned revocation letters with regard to

service of notices on the petitioners, calling for explanation or affording an opportunity of hearing to them, before revoking the building permissions. Admittedly, revocation of building permission is a punitive action. Any administrative action, which is punitive in nature, taken without following the principles of natural justice would be open to judicial review under Article 226 of Constitution of India, which is intended to correct errors of law or procedural errors leading to manifest injustice or violation of principles of natural justice.

8. Here, it is apt to state that the object of rules of natural justice is to secure justice, or to put it in other words, to prevent miscarriage of justice. They do not supplant the law, but supplement it. Even an administrative order, which involves civil consequences, must be consistent with the rule expressed in the Latin Maxim '*audi alteram partem*', which means 'no one should be condemned unheard'. Issuance of notice is the first limb of this principle. In the absence of a notice affording reasonable opportunity, the order passed becomes wholly vitiated. Thus, it is but essential that a party should be put on notice, before any adverse order is passed against him.

9. In **D.K. Yadav Vs. J.M.A. Industries**¹, the Hon'ble Apex Court, while laying emphasis on affording opportunity by the authority which has the power to take punitive or damaging action, held that orders affecting the civil rights or resulting in civil consequences would have to answer the requirement of Article 14 of the Constitution, i.e., equality before law. The Hon'ble Apex Court held as follows:

“The procedure prescribed for depriving a person of livelihood would be liable to be tested on the anvil of Article 14. The procedure prescribed by a statute or statutory rule or rules or orders affecting the civil rights or resulting in civil consequences would have to answer the requirement of Article 14. Article 14 has a pervasive procedural potency and versatile quality, equalitarian in its soul and principles of natural justice are part of Article 14 and the procedure prescribed by law must be just, fair and reasonable and not arbitrary, fanciful or oppressive.”

10. In National Building Construction Corporation v. S. Raghunathan², the Hon’ble Apex Court, in unequivocal terms, held that a person is entitled to judicial review, if he is able to show that the decision of the public authority affected him of some benefit or advantage, which, in the past, he had been permitted to enjoy and which, he legitimately expected to be permitted to continue to enjoy, either until he is informed the reasons for withdrawal and the opportunity to comment on such reasons.

11. In Mirza Khusru Ali Baig and others Vs. The Greater Municipal Corporation and another³, the composite High Court of Andhra Pradesh, while dealing with a similar issue, held as follows:

“But however, in any case, the Corporation is bound to adhere to the principles of natural justice before any punitive action is resorted to by them. A building permission accorded once, if it is cancelled later on, it would surely and squarely impact the building permit holder and the applicant adversely. When any adverse decision is taken, be it administrative or quasi-judicial, least that is expected in such a process is adherence to the principles of natural justice.

12. In view of the above, this Court is of the opinion that in order to justify the action taken by the respondent authorities in revoking the building permissions of the petitioners, they ought to have acted

¹ (1993) 3 Supreme Court Cases 259

² (1998) 7 Supreme Court Cases 66

fairly and in strict adherence to the principles of natural justice. However, since the learned Special Government Pleader, on instructions, submitted that the impugned revocation letters passed against the petitioners stand withdrawn to the extent of revocation of permission to construct buildings, the said submission is placed on record. The impugned revocation letters passed by the respondent authorities against the petitioners stand withdrawn to the extent of revocation of permission to construct buildings, in terms of submissions made by the learned Special Government Pleader. The petitioners are directed to submit their explanations to the objections pointed out in the impugned revocation letters to the respondent authorities within a period of two (2) weeks from today. On such submission of explanations by the petitioners, the respondent authorities are entitled to pass appropriate orders, in accordance with the provisions of TS-bPASS Act and the Rules made thereunder, within a period of one (1) week from the date of receipt of such explanations. In case, if no orders are passed by the respondent authorities within the time indicated above, there shall be deemed approval of the applications of the petitioners filed for construction of buildings. It is made clear that until passing of orders by the respondent authorities within the time prescribed on the explanations submitted by the petitioners, the petitioners shall not proceed with any type of constructions in their respective subject lands.

13. As regards the contention of the learned counsel for the petitioner in W.P.No.32665 of 2021 that the revocation order was

³ 2013 (2) ALD 785

passed without recording any objections, the respondent authorities are directed to bring the objections to the notice of the petitioner therein within a period of one (1) week from today; and on receipt of such objections, the petitioner shall submit his explanation to the said objections within two (2) weeks thereafter; and on submission of such explanation by the petitioner, the respondent authorities are entitled to pass appropriate orders in accordance with the provisions of TS-bPASS Act and the rules made thereunder, within one (1) week from the date of receipt of such explanation. In case, if no orders are passed by the respondent authorities within the time indicated above, there shall be deemed approval of the application of the petitioner filed for construction of building. It is made clear that until passing of orders by the respondent authorities within the time prescribed on the explanations submitted by the petitioner, the petitioner shall not proceed with any type of constructions in his subject land.

14. With the above observations and directions, all these writ petitions are disposed of. No costs.

Miscellaneous petitions, if any, pending in these writ petitions, shall stand closed.

Dr. Shameem Akther, J

13th December, 2021
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