

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)**

**TUESDAY, THE TWELFTH DAY OF MARCH
TWO THOUSAND AND TWENTY FOUR**

PRESENT

THE HONOURABLE SRI JUSTICE T.VINOD KUMAR

WRIT PETITION NO: 6321 OF 2024

Between:

D.M. Harinath, S/o. Late D. Mallikarjun, Aged 72 Years, Occ.Business, Residing at D.No.1-1-380/30/2, Ashok Nagar Extension, Gandhi Nagar, Hyderabad.

...PETITIONER

AND

1. The State of Telangana, Rep. by it's Principal Secretary, Municipal Administration Department, Secretariat, Hyderabad, Telangana State.
2. The Greater Hyderabad Municipal Corporation, Represented by its Commissioner, Tank Bund, Hyderabad.
3. The Deputy Commissioner, Circle-15, Musheerabad, Greater Hyderabad Municipal Corporation, Hyderabad.
4. The Assistant City Planner, Circle-15, Greater Hyderabad Municipal Corporation, Hyderabad.
5. The Director Enforcement Vigilance and Disaster Management, GHMC, Office at 6th and 7th Floor, Buddha Bhavan, Hyderabad-500003.
6. B. Mahesh Kumar, S/o. Not known to the petitioner, Aged 43 Years, Occ. Business, M/s. Eternal Group Builders, H.No.1-1-380/39/1, Ashok Nagar Extension, Gandhi Nagar, Hyderabad.
7. Aenugula Vinay Kumar, Ex-Corporater), S/o Not known to the petitioner, Aged Major, Occ. Business, Flat No. 126, Block No. 3, Janapriya Abode, H.No.1-4-945 to 950, Gandhi Nagar, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an appropriate writ or order more particularly one in the nature of Writ of Mandamus declaring the impugned notice No. 10185/DIR./EVDM/E/GHMC/2024 dated 02.03.2024 issued by 5th respondent, pending consideration of the

petitioners case before the 3rd respondent in pursuance of the order dated 02.02.2024 passed in W.P.No. 2477 of 2024, as illegal, arbitrary and against the principles of natural justice and consequently set aside the same.

IA NO: 1 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondent Nos. 2 to 4 to take action against the illegal construction undertaken by the 6th respondent by considering the petitioner's complaint dated 21.10.2023 and 11.12.2023.

IA NO: 2 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay all further proceedings in pursuance of the impugned notice No.10185/DIR./EVDM/E/GHMC/2024 dated 02.03.2024 issued by 5th respondent, which is issued without considering the petitioners case before the 3rd respondent in pursuance of the order dated 02.02.2024 passed in W.P.No 2477 of 2024.

Counsel for the Petitioner : SRI SESHADRI GOALLA

Counsel for the Respondent No.1 : GP FOR MCPL ADMN URBAN DEV

Counsel for Respondent No.2to5 : SRI K.RAVINDER REDDY, SC FOR GHMC

Counsel for Respondent No.6&7 : --

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE T. VINOD KUMAR

Writ Petition No.6321 of 2024

ORDER:

This Writ Petition is filed to declare the impugned notice dt.02.03.2024 issued by the 5th respondent, pending consideration of the petitioner's case before the 3rd respondent, in pursuance of the order dt.02.02.2024 passed by this Court in W.P.No.2477 of 2024, as being illegal, arbitrary and against the principles of natural justice, with a consequential direction by setting aside the same.

2. Heard learned counsel for the petitioner through Hybrid Mode, learned Government Pleader for Municipal Administration and Urban Development appearing for respondent No.1 and Sri K.Ravinder Reddy, learned Standing Counsel, appearing for respondent Nos.2 to 5 and with the consent of the learned counsel appearing for the parties, the Writ Petition is taken up for hearing and disposal at the admission stage.

3. Having regard to the manner of disposal of the Writ Petition at the admission stage and the //s involved in this Writ Petition, this Court is of the view that notice to unofficial respondent Nos.6 and 7 is not necessary for adjudication of the present Writ Petition.

4. The case of the petitioner, in brief, is that at an earlier point of time on the 3rd respondent authority issuing a speaking order, dt.23.01.2024,

the petitioner had approached this Court by filing a writ petition, *vide* W.P.No.2477 of 2024, as the said order was passed without considering the explanation submitted by the petitioner to the show cause notice, dt.18.12.2023.

5. Petitioner further contends that this Court, by taking note of the fact that the speaking order did not make a reference to the explanation submitted by the petitioner, was pleased to set aside the same, *vide* order dt.02.02.2024, and directed the 3rd respondent authority to pass an order afresh, by considering the explanation submitted by the petitioner, after granting him an opportunity of personal hearing.

6. Petitioner further contends that, while things stood thus, the 5th respondent authority has issued the impugned show cause notice dt.02.03.2024 calling upon the petitioner to submit various documents as mentioned therein within a period of three days and that the petitioner had submitted the same to the concerned authority on 04.03.2024.

7. Petitioner further contends that since the subject matter, pursuant to the order of this Court in W.P.No.2477 of 2024 dt.02.02.2024, is seized by the 3rd respondent, the 5th respondent could not have exercised the jurisdiction by issuing the impugned proceeding.

8. *Per contra*, learned Standing Counsel appearing on behalf of respondent Nos.2 to 5 submits that since the speaking order

dt.23.01.2024 was set aside by this Court, and the matter having been remitted back to the 3rd respondent authority, the same is required to be considered afresh, and it is for the said purpose, the 5th respondent authority, who is above the 3rd respondent authority in hierarchy, had issued the impugned notice dt.02.03.2024, calling upon the petitioner to submit documents and upon considering the explanation submitted by the petitioner thereto along with the documents; and that the authority would pass an order afresh by considering the explanation submitted by the petitioner.

9. Learned Standing Counsel further submits that there is no dual jurisdiction that is being exercised by the 5th respondent as well as the 3rd and it would only be one single authority, either the 3rd respondent or the 5th respondent only would consider the explanation submitted by the petitioner to the show cause notice dt.18.12.2023 as well as the further information that had been called for under the impugned notice.

10. I have taken note of the respective contentions urged.

11. Having regard to the fact that the 5th respondent is higher in hierarchy for the discharge of duties and functions under the Greater Hyderabad Municipal Corporation Act, 1955 and the said authority having issued the impugned notice in furtherance of the order of this Court in W.P.No.2477 of 2024, dt.02.02.2024, this Court is of the view that the

said authority should be directed to consider the explanation submitted by the petitioner to the show cause notice which was issued by the 3rd respondent authority dt.18.12.2023, and the further information that has been called for by the 5th respondent now, under the impugned proceeding, dt.02.03.2024, and thereafter pass a speaking order, abiding by the directions given by this Court in the order dt.02.02.2024 in W.P.No.2477 of 2024.

12. It is to be noted that there cannot be any dual exercise of jurisdiction by the 3rd respondent as well as the 5th respondent and it has to be confined only to one authority and since the respondents have now indicated to this Court that it is only the 5th respondent who would deal with the subject matter, this Court is of the view that the 5th respondent should be directed to take further action in the matter by considering the explanation submitted by the petitioner to the earlier show cause notice as well as the impugned notice.

13. Subject to above observation and direction, the Writ Petition is disposed of. No order as to costs.

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

//TRUE COPY//

SD/-T.JAYASREEE
ASSISTANT REGISTRAR



SECTION OFFICER

To,

1. The Principal Secretary, Municipal Administration Department, Secretariat, Hyderabad, State of Telangana, Telangana State.
2. The Commissioner, Greater Hyderabad Municipal Corporation, Tank Bund, Hyderabad.

Contd...

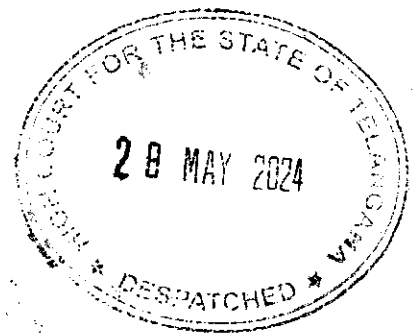
3. The Deputy Commissioner, Circle-15, Musheerabad, Greater Hyderabad Municipal Corporation, Hyderabad.
4. The Assistant City Planner, Circle-15, Greater Hyderabad Municipal Corporation, Hyderabad.
5. The Director Enforcement Vigilance and Disaster Management, GHMC, Office at 6th and 7th Floor, Buddha Bhavan, Hyderabad-500003.
6. One CC to SRI SESHADRI GOALLA, Advocate. [OPUC]
7. Two CCs to GP FOR MCPL ADMN URBAN DEV, High Court for the State of Telangana. [OUT]
8. One CC to SRI K.RAVINDER REDDY, SC FOR GHMC. [OPUC]
9. Two CD Copies.

BSK
KKS



HIGH COURT

DATED:12/03/2024



ORDER

WP.No.6321 of 2024

**DISPOSING OF THE WRIT PETITION
WITHOUT COSTS**

per
20/05
(12)