
(2022) 08 TEL CK 0063
In the Telangana High Court
Case No : Writ Petition No. 33769 Of 2022

Ajay Kumar Singh

APPELLANT

Vs

State Of Telangana And 4 Others

RESPONDENT

Date of Decision : 29-08-2022

Acts Referred:

Citation : (2022) 08 TEL CK 0063

Hon'ble Judges : T. Vinod Kumar, J

Bench : Single Bench

Advocate : Sushil Kumar Pandey

Final Decision : Allowed

Judgement

1. This Writ Petition is filed to declare the action of the 3rd respondent in issuing order in proceedings No.5322/TPS/Cir-23/KPZ/GHMC/2022 dated 17.08.2022 without considering the explanation submitted by the petitioner on 30.07.2022 to the notice dated 21.07.2022 and rejecting the explanation submitted and directing the petitioner to remove the unauthorised construction within three days, as being in violation of principles of natural justice inasmuch as no opportunity of personal hearing was granted to the petitioner before the impugned order is passed.

2. Heard learned counsel for the petitioner, learned Government Pleader for Municipal Administration & Urban Development appearing for 1st respondent, Sri Sampath Prabhakar Reddy, learned Standing Counsel for respondent Nos.2 to 4 and with their consent, the Writ Petition is taken up for hearing and disposal at the stage of admission.

3. Petitioner contends that the show cause notice dated 21.07.2022 was issued by the 3rd respondent, to which, he had submitted explanation on 30.07.2022 and that the 3rd respondent thereafter passed the impugned order dated 17.08.2022 directing the petitioner to stop the work forthwith and remove the unauthorized constructions made in 2nd, 3rd and 4th floors within three days.

The grievance of the petitioner is that before passing the order, no opportunity of personal hearing was granted to him, which action it is contended is clearly in violation of principles of nature justice.

4. Sri Sampath Prabhakar Reddy, learned Standing Counsel appearing for the respondents, would submit that the petitioner had undertaken construction work without obtaining any permission and it is for the said reason, the authorities have issued show cause notice dated 21.07.2022 and after considering the explanation submitted by the petitioner, vide his letter dated 30.07.2022, the impugned order has been passed and the same does not suffer from any violation, since the petitioner has proceeded with the construction, admittedly, without obtaining any permission from the authorities.

5. I have taken note of the above submissions.

6. Be that as it may, as to whether the petitioner had made construction without obtaining permission or not, is a question to be decided at a later point of time, after hearing the parties. Admittedly, no opportunity of personal hearing is granted to the petitioner before the impugned order is passed directing the petitioner to remove the alleged unauthorised construction made in 2nd, 3rd and 4th floors within three days, resulting in civil consequences. Once an order results in civil consequences, it is imperative on the part of the respondents to adhere to the principles of natural justice by granting personal hearing to the petitioner and thus, there is violation of principles of natural justice. Accordingly, this Court is of the view that the impugned order cannot be sustained on the said ground.

7. At this stage, learned Counsel appearing for the petitioner submits that no construction in 2nd, 3rd and 4th floors of the building is being undertaken by the petitioner. The said submission is taken on record.

8. In view of the above, the impugned order is set aside and the matter is remanded back to the respondent authority for passing orders afresh, after putting the petitioner on notice and by granting personal hearing and communicating the same to the petitioner.

9. Subject to the above observations, the Writ Petition is allowed. No order as to costs.

10. Consequently, miscellaneous petitions pending, if any, shall stand closed.