
(2021) 12 TEL CK 0016
In the Telangana High Court
Case No : Writ Petition No. 29671 Of 2021

Deeksha Educational Society

APPELLANT

Vs

State Of Telangana And 3 Others

RESPONDENT

Date of Decision : 07-12-2021

Acts Referred:

Constitution Of India, 1950 — Article 14, 21, 226, 300A

Citation : (2021) 12 TEL CK 0016

Hon'ble Judges : Dr. Shameem Akther, J

Bench : Single Bench

Final Decision : Disposed Of

Judgement

1. This writ petition, under Article 226 of the Constitution of India, is filed by the petitioner, wherein the following prayer is made:

"...to issue an appropriate writ, order or direction, more particularly one in the nature of writ of Mandamus declaring the action of the 4th respondent in issuing Revocation Letter No.66951/GHMC/7754/2021, dt.09.09.2021, as arbitrary, illegal, violative of article 14, 21 and 300 A of the constitution of India and consequently set aside the Revocation Letter No.66951/GHMC/7754/2021, dt.09.09.2021, in the interest of justice and pass such other order or orders..."

2. Heard Mr. G. Madhusudhan Reddy, learned counsel for the petitioner, learned Government Pleader for Municipal Administration and Urban Development appearing on behalf of respondent No.1, Mr. Pasham Krishna Reddy, learned Standing Counsel for GHMC appearing on behalf of respondent Nos.2 to 4 and perused the record.

3. Originally, one V.Poornachander Rao had purchased the land in an extent of Acs.7.24 guntas in Sy.No.317, situated at Budvel Village, Hyderabad West, from one Khaja Mir Wajid Ali and another through a registered sale deed bearing document No.9/1979 dated 7.01.1969. Thereafter, said V.Poornachander Rao executed a General Power of Attorney (GPA) vide document bearing No.10/1978,

dated 14.07.1978, in favour of Mr. S.Appaiah to sell the said land. Pursuant to the said GPA, S.Appaiah converted the said land into 102 residential plots by obtaining permission from the Gram Panchayath and sold the plots to various individuals, including the petitioner's vendors. In the said layout, the petitioner's society had also purchased 32 plots in the year 1996.

4. The petitioner's Vendor Mr. K.Satyanarayana Rao purchased Plot No.75 in an extent of 350 square yards from V.Poornachander Rao through registered sale deed bearing document No.1461/1978, dated 08.08.1978, and thereafter, the petitioner purchased the said plot through registered sale deed bearing document No.1629/1996, dated 20.04.1996.

5. Subsequently, the petitioner made an application to the GHMC for regularization of an unapproved Lay-out in respect of Plot No.75 in Sy.No.317, Rajendranagar Circle (hereinafter referred as 'subject property') by paying requisite fee and accordingly, respondent No.3 issued proceedings No.LRS13032018014236, dated 13.03.2018, by regularizing the subject property. Thereafter, the petitioner, with an intention to construct a compound wall and rooms in the subject property, submitted an application, dated 13.08.2021 to respondent No.2, through Online, by enclosing relevant documents. Respondent No.2, after satisfying with the documents submitted by the petitioner and after receipt of the necessary charges, granted permission vide Permit No.3889/GHMC/2021 in File No.66951/GHMC/7754/2021, dated 13.08.2021, but later the same was revoked, vide subject revocation letter dated 09.09.2021, on the following grounds:

i. As report submitted by SO, the submitted documents are not tallying with physical position. Hence proposals may be rejected.

ii. The plot area is not tallying with the submitted ownership documents/as specified in TS-bPASS application form.

iii. As report submitted by SO, the submitted documents are not tallying with physical position. Hence proposals may be rejected.

Challenging the said revocation letter, dated 09.09.2021, the petitioner herein filed the present writ petition.

6. Mr.G.Madhusudhan Reddy, learned counsel for the petitioner would submit that if at all the documents submitted by the petitioner are not tallying with the physical possession of the petitioner, the authorities shall issue a notice to the petitioner calling for explanation at the first instance. At the time of granting permission for construction of building, the authorities concerned physically inspected the subject property and granted approval. In spite of showing all the documents in respect of title of the petitioner, the respondents unilaterally issued revocation letter, dated 09.09.2021 stating that the physical possession of the petitioner is not tallying with the documents submitted by him, only in order to harass the petitioner. Revocation of building permit by GHMC is illegal and

arbitrary. He would further submit that respondent No.4 did not issue any notice and did not afford an opportunity to the petitioner to show and explain the reason for restoring the permission, before revoking the building permit and ultimately prayed to allow the writ petition as prayed for.

7. On the other hand, Mr. Pasham Krishna Reddy, learned Standing Counsel for GHMC, on instructions, would submit that the petitioner has occupied the road which leads to the other plots in the Layout and thereby blocked the way to other plot owners and therefore, GHMC has revoked the building permit.

8. Referring to LRS proceedings, dated 13.03.2018, issued by the GHMC and also the reasons mentioned in the revocation letter, dated 09.09.2021, the learned counsel for the petitioner would submit that the submissions made by the learned standing counsel for GHMC are contrary to the reasons mentioned in the revocation letter, dated 09.09.2021, and the LRS proceedings, dated 13.03.2018.

9. It is not in dispute that the GHMC authorities have regularized the subject property belonging to the petitioner. It is also not in dispute that when the petitioner applied for permission for construction of building over the subject property, the same was accorded by the GHMC authorities, vide order, dated 13.08.2021. Having granted permission for construction of building, respondent No.3 revoked the same vide letter dated 09.09.2021, for the reasons mentioned above. A perusal of the revocation letter, dated 09.09.2021, issued by the respondent authorities would reveal that there is no mention about either serving of any notice on the petitioner or affording an opportunity for submitting his explanation. Thus, the impugned revocation letter dated 09.09.2021, is in violation of principles of natural justice. The action of respondent authorities in issuing revocation letter is a punitive action. It is settled law that before initiating any punitive action, the respondent authorities are bound to adhere to the principles of natural justice as held by this Court in *Mirza Khusru Ali Baig Vs. The Greater Municipal Corporation* 2013 (2) ALD 785. But, in the present case, respondent authorities have not complied with the same and there is a violation of principles of natural justice.

10. In view of the above discussion and on the ground that impugned punitive action of revocation of building permission was not preceded by compliance of principles of natural justice, the impugned revocation letter, dated 09.09.2021, is hereby set aside, without considering the merits and demerits of the case. However, respondent No.4 is directed to pass orders afresh, in accordance with law, by putting the petitioner on notice and affording an opportunity of hearing. The said exercise shall be completed within thirty (30) days from the date of receipt of a copy of this order. Considering the submission made by the learned Standing Counsel for GHMC that the petitioner has occupied the road which leads to other plots in the layout and thereby blocking the road to reach other plots, the petitioner shall not make any construction pursuant to the building permit, dated 13.08.2021, till the said exercise is completed.

11. The writ petition is accordingly disposed of. However, in the circumstances of the case, there shall be no order as to costs.

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