
(2022) 01 TEL CK 0051
In the Telangana High Court
Case No : Writ Petition No. 4615 Of 2022

Keshipeddi Bhargav Raju

APPELLANT

Vs

State Of Telangana

RESPONDENT

Date of Decision : 31-01-2022

Acts Referred:

Constitution Of India, 1950 — Article 14, 21, 226, 300A
Telangana State Building Permission Approval and Self-Certification (TS-bPASS) Act,
2020 — Section 7, 7(8)

Citation : (2022) 01 TEL CK 0051

Hon'ble Judges : P. Madhavi Devi, J

Bench : Single Bench

Advocate : K Mohan

Final Decision : Disposed Of

Judgement

1. This Writ Petition has been filed under Article 226 of the Constitution of India seeking Writ of Mandamus declaring the orders of the 3rd

respondent dated 22.12.2022 vide Letter No.89950/GHMC/12795/2021 as illegal, violative of principles of natural justice and Article 14, 21 and 300-A

of the Constitution of India.

2. Brief facts leading to the filing of this Writ Petition are that the petitioner is the absolute owner of Plot No.68 in Sy.No.29 admeasuring 165 square

yards, situated at Samala Laxmi Enclave, Kowkur village, Alwal Mandal, Medchal Malkajgiri District. With an intention to construct residential

building in and over subject plot, he made an application to the respondents for construction permission and after being satisfied about the prima facie

title over her plot of land, respondent No.3 was pleased to grant permission in his favour through permission No.89950/6870/GHMC/2021 dated

13.11.2021. Thereafter, vide impugned letter dated 22.10.2021, the permission granted to the petitioner was revoked without any notice to the petitioner. In the letter dated 22.10.2021, the reasons for revocation of the application are that:

â??The proposals are not in accordance to the Telangana Building Rules issued vide G.O.ms.No.168, dt.07.04.2012 and its amendments.

The said Sy.Noâ??s is covered under the court case, WP.No.19108 of 2014. Hence this proposal is not recommended. As Recommended by TPS, this proposal is not recommended.

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3. It is the case of the petitioner that the petitioner was not given any opportunity to represent before revocation of the permission already granted to him.

4. Learned counsel for respondent No.3 was heard.

5. Learned Government Pleader for Municipal Administration and Urban Development submitted that the petitioner had applied through TS-bPASS as per the Telangana State Building Permission Approval and Self Certification System (TS-bPASS) Act, 2020. The petitioner was granted instant

approval on submitting the application and after verification of the application, building permission shall be sanctioned to the petitioner within a period

of 21 days and if it is not so sanctioned, then it shall be considered as deemed approval.

6. Upon hearing the learned counsel for the petitioner, Sri K.Mohan, the learned Government Pleader for Municipal Administration and Urban

Development appearing for respondent No.1 and the learned Standing Counsel for respondent No.2 and 3, it is observed that Section 7 of the TS-

bPASS Act prescribes the procedure for obtaining building permissions and as per Sub-Section (8) thereof, the applicant has to submit an online

application along with requisite documents as may be prescribed and such documents upon submission shall be examined by the Single Window

Committee set up for this purpose and shortfalls or incompleteness or cases where further information or clarification is needed shall be

communicated to the applicant within 10 days from the date of applying, in such

manner, as may be prescribed. Therefore, it is noticed that before revoking the permission, the authorities are required to give a notice of shortfall or incompleteness or clarification to the applicant and after considering the explanation of the applicant only, a final decision of sanctioning or revocation can be taken. In the present case, it is clear that the respondents have not followed the procedure as laid down under Sub-Section (8) of Section 7 of the TS-bPASS Act, 2020.

7. This Honâ??ble Court in W.P.No.20398 of 2021 and batch dt.13.12.2021 has considered this issue at length and at paras 12 and 13 has directed as under:

â??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 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 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.â??

8. In view of the above, the revocation order dt.22.10.2021 is set aside and the respondents are therefore directed to follow the guidelines or the directions issued by this Court in W.P.No.20398 of 2021 and batch dt.13.12.2021 and process the application of the petitioner and pass orders accordingly in accordance with law.

9. The Writ Petition is accordingly disposed of. No order as to costs.

Pending miscellaneous petitions, if any, in this Writ Petition shall stand closed.