
(1997) 12 AP CK 0079

In the Andhra Pradesh High Court

Case No : Writ Petition No. 29723 of 1997

Nellore District Chamber of Commerce and Industry

APPELLANT

Vs

Commissioner, Nellore Municipality

RESPONDENT

Date of Decision : 11-12-1997

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1998) 4 ALD 382 : (1998) 2 AnWR 512

Hon'ble Judges : B.S. Raikote, J

Bench : Single Bench

Advocate : Mr. M.V. Durga Prasad, for the Appellant; Mr. E. Sambasiva Pratap, SC for Municipalities, for the Respondent

Judgement

1. Heard. This writ petition is filed by the Nellore District Chamber of Commerce and Industry, Nellore, challenging the impugned action of the respondent-Commissioner, Nellore Municipality, Nellore. One of the notices dated 13-10-1997 impugned herein is filed as material paper No.4 addressed to one Mr. C.C. Subba Rayudu. Learned Counsel for the petitioner submits that similar notices are issued to other members of the Chamber of Commerce and Industry and it is an appropriate case for granting the relief as prayed for. But the Court raised an objection as to how the writ petition is maintainable at the instance of the Chamber of Commerce and Industry. Since the notices are issued to the individual persons, who are the residents of the Municipality; and according to the Municipality there are some alleged unauthorised constructions. Whether a particular person has constructed his building unauthorisedly or not would be a fact to be decided in each case and in pursuance of the impugned notice or notice, given to a particular person earlier, and if he has given a reply, that would be a matter for consideration to the Municipality. From this fact, it follows that if any person is aggrieved by the impugned action of the respondent, he should file a separate writ petition and writ petition at the instance of the Chamber of Commerce and Industry is not maintainable. However, the learned Counsel for the petitioner strenuously contended that the Chamber of Commerce and

Industry is an organisation whose object is to protect the welfare of its members. Therefore, if the interest of a member is affected by a notice and if the common question of law is involved, the Chamber of Commerce and Industry can maintain the writ petition. In support of his argument, he relied upon the judgment of a Division Bench of this Court in STAC v. Andhra University 1996 (2) ALD 1220 (DB).

2. But in my considered opinion, this writ petition is not maintainable for the reason that whether there is any unauthorised construction or not is a matter to be decided with reference to each person to whom the notice is issued by the Municipality. One notice that is filed in the writ petition at material paper No.4 pertains to Mr. C. C. Subbarayudu. It is submitted that similar notices are issued to other persons, who are members of the Chamber of Commerce and Industry. If that so, it is for such persons, prima facie to make out a case, that there was no unauthorised construction of his building, and if he is affected by any impugned notice, he can challenge the same including the Government Order. In these circumstances, the Chamber of Commerce and Industry cannot maintain the writ petition.

3. Moreover, whether a person has constructed his building unauthorisedly contrary to Rule or Bye-law is a matter to such a person and Chamber of Commerce and Industry has nothing to do it, as per the objects for which the petitioner is constituted. Even on this count also I am of the opinion that this writ petition cannot be maintained. The ruling relied upon by the learned Counsel for the petitioner, referred to above, does not assist the case of the petitioner. In the said judgment, the Teachers' Association filed a writ petition challenging certain appointments. That Teachers' Association, though not registered, had an interest and every member of the Association has an interest, in illegal appointment. It was only under these circumstances this Court held that they could maintain a single common writ petition. But in the instant case, as I have already stated above, it is regarding the unauthorised construction by a particular person, to whom a demand notice is issued, and it is for that person to satisfy the authorities and the requirements of law. In this view of the matter, the said judgment of the Division Bench of this Court does not apply to the facts of this case. Accordingly I pass the order as under:

4. The writ petition is dismissed as not maintainable. However, it is made clear that it is open to the person concerned to whom a demand notice is issued to prefer his own writ petition. No costs.