



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[0]

THURSDAY ,THE TENTH DAY OF OCTOBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SMT JUSTICE KIRANMAYEE MANDAVA

WRIT PETITION NO: 23119/2024

Between:

Viragoo Restro Bar and Others

...PETITIONER(S)

AND

The State Of Andhra Pradesh and Others

...RESPONDENT(S)

Counsel for the Petitioner(S):

1.N ASHWANI KUMAR

Counsel for the Respondent(S):

1.GP MUNICIPAL ADMN AND URBAN DEV AP

The Court made the following:

Heard the learned counsel for petitioners and the learned Government Pleader appearing for respondents 1 to 3.

It is contended by the learned counsel for petitioners that the impugned order dated 03.10.2024 issued under Section 635(2) of the GHMC Act, 1955, is not in accordance with the said provision in as much as, under the provisions, the Municipal authority can ask for only the ownership documents or link documents and to the extent specified under Section 635(1) of the Act, viz., the nature of his interest therein and the name and address of any other person having an interest therein, whether as freeholder, mortgagee, lessee or otherwise, so far as such name and address is known to him.

He contends that apart from these particulars as provided under Section 635(1) of the Act, Commissioner could call for no other information. He

contends that vide the impugned proceedings, the Commissioner has asked for following particulars:

1. Building permissions, if any of existing structures and bar in Sy.No.329/5A of Kapuluppada.
2. NOC from APCZMA authorities for the said structure.
3. Ownership documents and link documents and upto date Encumbrance certificate of the said site.
4. NOC from MoFFCC (Ministry of Environment Forest and Climate Change).
5. NOC/Permissions from the other line Department.

which, the learned counsel contends that, is not in accordance with the provisions of the Act.

The learned counsel for petitioners further contends that the basis for issuance of notice under Section 635 of the Act, dated 03.10.2024, is the news paper report said to have been published on 29.09.2024 and 03.10.2024 and a representation of one Sri Peethala Murthy Yadav dated 13.09.2023. It is stated that the copies of the same have not been made available to the petitioners.

The learned counsel in support of his contention that on the basis of news paper reports hasty orders should not be passed, relies on the decision of this Court in W.P.No.24734 of 2021 and batch and the decision of the Honourable Apex Court in the case of ***Ravinder Kumar Sharma vs. State of Assam and others***¹.

The learned counsel for the petitioners further submits that to the notice dated 03.10.2024, he has submitted his objections to the respondent on 07.10.2024. However, as noted from the paper book filed along with the writ petition no such explanation has been made part of the record. The said submission of the learned counsel for the petitioners is placed on record.

¹ (1999) 7 SCC 435

Per contra, the learned counsel for the respondents contends that the petitioners establishment is located in a residential area and the building permission was also granted for residential purpose and not for commercial purpose of running bar and restaurant and he prays time to file counter.

Post on 04.11.2024 for counter of the respondents, till such time, the respondents shall not take any coercive measures pursuant to the notice dated 03.10.2024.

JUSTICE KIRANMAYEE MANDAVA