

PROCEEDINGS OF THE COMMISSIONER, MCH, HYDERABAD

Present: Smt. Chitra Ramachandra, I.A.S.,
Commissioner, MCH

Proceedings No.1826/BRS/HO/98 - 18 76

Date: 17.05.2005

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Sub: MCH TPS-HO - Regularization of 6th & 7th floors constructed in Sy.No.37 & 38 situated at Chikoti Gardens, Begumpet, Secunderabad, under BRS subject to out come of all other court cases/vigilance cases etc., - Orders - Issued -Reg.

Ref:-1 BRS application of M/s Gurudev Siddapeeth Ashram in file No.1826/BRS/HO/98

2. MCH Notice u/s 461 of HMC Act dt.18.11.97
3. MCH Notice u/s 452 & 636 of HMC Act dt.5.5.98 and 13.5.98
4. WP No.13677/98 dt.13.5.98
5. G.O.Ms.No.373, M.A., DT.1.7.98
6. G.O.Ms.No.419, MA., dt.30.7.98
7. This Office Lr.No.1826/BRS/HO/98-99/1198 dt.5.5.99
8. Representation dt.13/8.2003 of Sri Satish Modi for Gurudev Siddapeeth
9. W.P. No.5547/99 and WP No.453/2000
10. G.O.Ms.No.455, MA., dt.29.7.2002
12. This Office Letter dt.28.3.04 addressed to the SO., ULC.
13. Common Orders dt.17.7.2003 of the Hon'ble High Court in WP No.13677, W.P.No.14498 and WP.No.1450/98
14. Hearing conducted on 27.11.2004
15. Representations of M/s Gurudev Siddapeeth dt.17.11.2004 & dt.5.5.05

Orders :

The permission was granted vide Permit No.471/61 dt.26.12.95 for construction of compound wall on an area Admeasuring 6556.26 sq.mtrs in Sy.No.37 & 38 to M/s Gurudev Siddhapeet Charitable Trust, Begumpet, Hyderabad. Later on 14.8.1996 the Gurudev Siddhapeet Ashram has submitted building plans seeking permission for construction of stilt for parking + 5 upper floors for Residential Flats consisting of Blocks-A, B & C on the site area Admeasuring 7772.38 sq.mtrs in sy. No.37, 38 & 43. On verification it was noticed that the Sy.No.43 was not covered by the ULC clearance in proceeding No.F2/4/93 dt.9.9.93. Hence, the proposals were returned, unapproved on 9.10.96. Aggrieved by the said letter M/s. Gurudev Siddhapeet Trust had submitted a representation on 14.10.96 along with the plans proposed for construction of stilt for parking + 5 upper floors for Residential Flats consisting of Blocks- B & C on the site area Admeasuring 6561.38 sq.mtrs in sy. No.37, 38 duly deleting the Block No.A and Sy. No. 43. The permission was granted in Permit No.50/4 dt.30.12.96 as revised proposals were as per the recommendations of the Building Committee dt.12.11.96 & 15.11.96

M/s Gurudev Siddhapeet Charitable Trust had approached the Govt., for the additional construction of Multistorieyed Building 6th, 7th & 8th floors. The Govt., vide Memo No.26944/M1/96MA dt.29.10.96 had called for the report from MCH. Accordingly, the matter was examined and submitted report to the Govt., vide letter dt.18.12.96. In turn the Govt., through Memo dt.1.1.97 requested the MCH to furnish the plan indicating the Blocks A, B, C, and the extent of surplus land. The same was furnished to the Govt., vide letter dt.12.6.97

The MCH through letter dt.28.5.98 had informed the latest stage of the case to the Govt., in view of the deviations & unauthorized construction and ULC proceedings and requested the Govt., to reject the application made for 6th, 7th & 8th floors by M/s Gurudev Siddhapeet Charitable Trust. In reply the Govt., vide Memo No.26944/M2/96 dt.26.6.98 rejected the application of M/s Gurudev Siddhapeet Charitable Trust.

On 16.10.97 it was noticed that M/s Gurudev Siddhapeet Charitable Trust was proceeding with the construction work in deviation to the sanction plan. Hence, the MCH filed a Caveat Petition in the City Civil Court on 13.11.97 and then issued a notice u/s 461 of HMC Act. Then M/s Gurudev Siddhapeet Ashram filed a suit in OS.No.1143/97 in the city Civil court. The Hon'ble First Asst. Judge, City Civil Court passed status quo orders in I.A.No.944/97 on 24.11.97. The MCH filed stay vacation petition. The Hon'ble Court had modified the status quo orders on 4.12.97 allowing the petitioner to proceed with the construction strictly in accordance with the sanctioned plan. As the M/s. Gurudev Siddhapeet has proceeding with the construction in violation of court orders contempt petition was also filed in June, 1998.

Sri V.G.K. Prasad had submitted a representation on 9.3.98 duly enclosing the copy of the orders of the Hon'ble High Court dt.9.3.98 in WP No.6097/98 filed by Sri V G K. Prasad against Govt., Andhra Pradesh (Revenue Dept.), Commissioner, MCH., Revenue Officials, M/s Modi Builders & 5 others and requested the Commissioner, MCH to stop the construction of M/s Gurudev Siddhapeet. The Hon'ble High Court while disposing the writ petition filed by V G K Prasad has passed the following orders:

"The writ petition is disposed of directing the 2nd Respondent to consider the representation of the Petitioners dt.7.2.98 and communicate his decision taken thereon to the petitioners within a period of one month from the date of receipt of a copy of this order. Further the 4th Respondent is directed to hear and dispose of the Appeal of the petitioners preferred against the proceedings No.B/128 dt.21.3.92, case No.B/3/93 dt.9.3.93 and No.B/129/92 dt.23.4.94 within a period of two months from the date of receipt of a copy of this order. No costs."

In view of the orders of the Hon'ble High Court the representation dt.7.2.98 of Sri V G K Prasad and as per Govt., Memo No.7637/M2/98-1 dt.16.4.98 examined and vide letter No.83/TP7/SD/97-98/117/185 dt.15.5.98 informed the facts of the case and requested him to implead in the case in OS.No.1443/97 so as to collaborate and strengthen the MCH stand in the court.

The MCH has issued Notices u/s u/s 452 & 636 of HMC Act were issued stating that M/s Gurudev Siddhapeet Trust was proceeding with the construction of 6th and 7th floor without permission. Aggrieved by M/s Gurudev Siddhapeet Ashram had approached the Hon'ble High Court. The Hon'ble High Court on 13.5.98 in WP MP No.16487/98 in WP No.13677/98 passed Stay Orders

With reference to the Govt., Memo No.9527/M2/58-2MA dt.12.5.98 and another MemoNo.11559/M2/98-1 MA., dt.16.5.98 the MCH has furnished the facts of the case informed to the Govt., vide this office letter dt.28.5.98 stating that the permission was granted u/s. 428 to 429 of HMC Act, 1955. The conditions stipulated regarding non alienation or the procedures adopted by the trustees seeking alienation of these trust properties imposes an embargo on the trustees and not on the MCH to consider their request for development of their properties, after obtaining the permission from the MCH. If the trustees intend to alienate or sell the property so developed, it is the look out of the trustees to follow the conditions stipulated or procedure prescribed by the ULC Dept., in the case he fails to follow or obey the ULC orders. The properties automatically become out of the purview of the Chapter-III of ULC Act as laid down u/s. 19(1) and (iv) of ULC Act. Thus the MCH accorded permission for constructing residential buildings on the name of the trust M/s. Gurudev Siddhapeet as per the norms and regulations of 1981 and as per the Govt. orders issued in G.O.Ms.No. 310 dt. 11-05-1993 and section 429 & 428 of the HMC Act, 1955. Consequently, the permission granted for the construction of the HMC clearance from Special Officer, ULC is followed, and further necessary action is being taken up after the time given in the show cause notice u/s. 450 of HMC Act, dt. 25.05.98.

Aggrieved by the show cause notice u/s 450 of HMC Act dt.25.5.98 M/s Gurudev Siddhapeet Ashram have filed a fresh case in the High Court in WP No.14498/98 against the Commissioner, MCH duly withdrawing the previous WP. NO.13677/98. The Hon'ble High Court had passed stay orders on 28.5.98 restraining the MCH from demolition of the constructions. Further the Gurudev Siddhapeet Ashram have also filed another Writ Petition in the High Court in WP No.14501/98 against the Govt., of A.P. Secretary (Rev.) Dist.,

Collector, MRO (Balanagar), Special Officer ULC., Commissioner, A.P Vigilance Commission and MCH with a pray to direct the respondents to act in accordance with law and forbear from demolishing any part of the construction made by the petitioner. The Hon'ble High Court on 28.5.98 have granted interim stay of demolition.

Sri M. Seshagiri Rao, M.L.A., issued notice in the Legislative Assembly regarding construction of commercial flats on the land donated to Gurudev Ashram School at Begumpet, Hyderabad., questioned vide LAQ No.7305/M (S). The Govt., vide Memo No.9227/M2/98-3 MA., dt.24.7.98 seeking report from the Commissioner, MCH. In reply the MCH vide Lr.No.592/OP/OP5/MCH/98 dt.22.7.98 sent the detail report along with the supplementary note of the LAQ No.7305/M (S) furnished to the Government informing that the question of taking action on officers concerned does not arise, since the permission issued was as per rules in force.

The Hon'ble High Court has passed the common order on 17.7.2003 in WP No. 13677/98 & 14498/98, and 14501/98 with directions

- (a) The petitioner may make proper representation against the show cause notice u/s 452(1) as well as Section 450 of the Act which are the subject matter of WP Nos. 13677/98 & 14498/98 respectively within a period from the date of receipt of the order. As and when such a representation is received, it is open to Commissioner to conduct proper enquiry in accordance with Sec. 452(1) of the Act and take appropriate action there under. It is also open to the Commissioner to pass appropriate orders u/s 450 of the Act after considering the representation of the petitioner.
- (b) WP No.14501 of 1998 is filed on mere apprehension. However, it is observed that if any coercive steps are taken, the same may be taken in accordance with law.

During the hearing on 27.11.2004, the party has shown the Xerox copy of the letter No.1686/TP/MCH/SD/98 dt.20.5.98 wherein the Addl.City Planner, MCH had addressed a letter to Sri M.Laxma Reddy MSC., stating that party has obtained permission for Stilt + 5 floors only vide Permit No.50/41 of 1996 and he is constructing 6th and 7th floors without permission.

In this case Show cause notice was issued dt.5.5.98 u/s 452 of HMC Act and notice u/s 636 dt.13.5.98 was also issued on unauthorized construction of 6th & 7th floors.

M/s.Gurudev Siddha Peeth, have submitted an application under Building Regularization scheme for Form-A & B vide file bearing No.1824/BRS/HO/98, duly remitting an amount of Rs.28,000/- towards Form-A & B submitted along with building plans and Indemnity Bond.

The permission sought for regularization for the un-authorized construction under BRS was refused and applicant was informed vide letter No.1826/BRS/ HO/98-99/1198, dt:5.5.99 on following grounds :

1. The constructions made after 30.6.98 cannot be regularized.
2. The balance 80% not paid.
3. Alienated property, against ULC Clearance given.
4. NOC from Civil Aviation and Fire Services and approval of Structural designs by CE, MCH and HUDA not obtained.
5. The MSBR open spaces are in shortfall.
6. Road alignment affected and Title dispute.

The Govt. vide DO Letter no.1568/VIII/2001-34, dt:18.3.05, has called for remarks from MCH in respect of the construction of MSBR flats in Gurudev Siddapeeth Charitable trust. Accordingly this office has furnished the remarks to the Govt. vide letter NO.83/TP7/SD/96-2001, dt:30.3.05.

As per the common orders of the Hon'ble High Court in WP No.13677/98, 14498/98 and 14501/98 directed the Commissioner, MCH to examine the BRS issue and

the matter has been examined and it has been come to a conclusion that BRS is technically possible as notices were issued prior to cut off date 30.6.98 stating that 6th & 7th floors were constructed. The Govt., have already been informed in detail on 30.3.2003.

In view of the above, the construction prior to cut off date 30.6.98 is regularized, subject to out come of all other court cases, vigilance cases etc., and also production of NOCs as per the Multistoried Building Regulations of 1981.

Chit/0
Commissioner,

MCH

17/5/03

To

1.

M/s Gurudev Siddhapeeth Ashram
Rep. By Sri Satish Modi
H.No.5-4-187/3 & 4
3rd floor, M.G. Road
Secunderabad.

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Copy Submitted to : The Principal Secretary to Govt., MA & UD Dept.,