

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

(Special Original Jurisdiction)

**THURSDAY, THE THIRD DAY OF NOVEMBER
TWO THOUSAND AND TWENTY TWO
PRESENT**

**THE HONOURABLE SMT JUSTICE LALITHA KANNEGANTI
WRIT PETITION NO: 39654 OF 2022**

Between:

Mehta and Modi Realty (Thimmapur) LLP, Rep. by its Managing Partner, Soham Modi,
S/o. Late Satish Modi, R/o.5-4-187/3 and 4, Soham Mansion, M.G. Road, Secunderabad-
500003.

...PETITIONER(S)

AND

1. State of Telangana, rep by Principal Secretary, Municipal Administration and, Urban Development Department, Secretariat Hyderabad.
2. Hyderabad Metropolitan Development Authority, Rep. by its Metropolitan Commissioner, Hyderabad.
3. Kothur Municipality, Rep. by its Commissioner, Kothur Mandal, Ranga Reddy District.
4. Union of India, Represented by its Secretary, Ministry of Environment, Forest and Climate Change, New Delhi.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ of mandamus or any other appropriate Writ order or direction declaring the TS-bPASS letter no. 003213/BP/HMDA/0583/SMD/2022, dt. 12.07.2022 as arbitrary, illegal and unsustainable and set aside the same and consequently direct the Respondents 2 and 3 to grant construction permission to the Petitioner in respect of the Application in File No.003213/BP/HMDA/0583/SMD/2022, dt. 26.03.2022

IA NO: 1 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the Respondent No.2 and 3 to consider the construction permission application filed by the Petitioner in File No.003213/BP/HMDA/0583/SMD/2022, dated 26.03.2022 without insisting on production of Environmental Clearance from the SEIAA pending disposal of the Writ Petition.

Counsel for the Petitioner(s):SRI. PRABHAKAR PERI

Counsel for the Respondent 1 : GP FOR MCPL ADMN URBAN DEV

Counsel for the Respondent 2 : D. MADHAVI, SC

Counsel for the Respondent 3 : SRI. B. MADHAV RAO, SC

**Counsel for the Respondent 4 : G.PRAVEEN KUMAR, DEPTY SOLICITOR
GENERAL OF INDIA**

The Court made the following: ORDER

HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION No.39654 of 2022

ORDER:

This writ petition is filed seeking the following relief:

“ ...to issue a writ of mandamus or any other appropriate Writ order or direction declaring the TS-bPASS letter no 003213/BP/HMDA/0583/SMD/2022, dt.12.07.2022 as arbitrary, illegal and unsustainable and set aside the same and consequently direct the Respondents 2 and 3 to grant construction permission to the Petitioner in respect of the Application in File No.003213/BP/HMDA/0583/SMD/2022. dt.26.03.2022 ...”

2. Sri Peri Prabhakar, learned counsel for the petitioner, submits that the petitioner is the owner to an extent of Ac.3-24 guntas forming part of Survey No.199, situated at Timmapur Village, Kothur Mandal, which is purchased through registered document, dated 17.12.202. The petitioner made an application dated 26.03.2022 for construction of a residential building with a built up area of 38427.18 Sq. Meters with one Cellar + Ground + 4 Upper Floors. Thereafter, a shortfall notice was issued on 04.04.2022. In the said shortfall one of the shortfall is that the petitioner has to submit the environmental clearance from SEIAA (State Level Environment Impact Assessment Authority) Department. He submits that the petitioner has submitted an explanation on 15.06.2022 stating that as

per the Gazette dated 15th November, 2018, the local bodies, such as, Municipalities, Development Authorities, District Panchayats, shall stipulate environmental conditions while granting building permission for the Building or Construction Projects with built-up area greater than 20,000 sq. mtrs. and less than 50,000 sq. mtrs. He submits that in view of that, the local authority can itself give environmental clearance and accordingly the petitioner has resubmitted it. Now, the impugned order is passed on 12.07.2022 stating that petitioner has not responded to the shortfalls issued by the office. Hence, the proposal is rejected, since there is no provision for the second shortfall in TS-bPASS Act. He submits that G.O.Ms.No.168 is dated 07.04.2012 and subsequently, an amended G.O. is issued by the Government of India, which is of the year 2018. He submits that the respondents failed to consider, where the petitioner has resubmitted pursuant to the shortfall issued by proceedings dated 12.07.2022.

3. Learned Standing Counsel Smt. D. Madhavi, submits that the Government has issued G.O.Ms.No.168. While granting permissions the respondent authorities are following G.O.Ms.No.168. If the petitioner is aggrieved by the said G.O., he has to question the same.

4. Though, a submission was made that the petitioner has not resubmitted, learned counsel for the petitioner has submitted that the petitioner filed online application and the same was filed before this Court. The respondents have not denied the same.

5. Learned Deputy Solicitor General submits that he will come up with a counter.

6. Learned Standing Counsel Mr.B.Jagan Madhav Rao appearing for 3rd respondent, submits that he will come up with a counter.

7. As per Clause 3(e) of G.O.Ms.No.168, a particular condition has been laid down that the environmental clearance can be obtained through Environmental Impact Assessment Authority, Ministry of Environment and Forest, Government of India. This is based on a notification of the Central Government, dated 14.09.2006. When the Government of India has given a subsequent clarification by way of a gazette notification No.S.O.5736(E) dated 15th November, 2018, this Court is not able to appreciate the contentions raised by the learned Standing Counsel, that the petitioner has to question the said G.O. There is no necessity to question the G.O., as the said clause is incorporated in the G.O. basing on the notification issued by the Central Government and the respondents are

bound by the subsequent notifications that are issued. In fact, it is for the respondents to follow the amended guidelines issued by the Central Government.

8. Taking into consideration the subsequent amendment and the clarification that is issued by the Central Government. The writ petition is disposed of by setting aside the impugned proceedings dated 12.07.2022 and the respondents shall consider the petitioner's application in the light of Notification No. S.O.5736 (E) dated 15th November, 2018, as far as clearance from the Central Government is concerned, provided other shortfalls are complied with.

9. Accordingly, the Writ Petition is disposed of. No order as to costs.

Miscellaneous applications, pending if any, shall stand closed.

//TRUE COPY//

SD/-B.SATYAVATHI
DEPUTY REGISTRAR



SECTION OFFICER

To,

1. The Principal Secretary, Municipal Administration and, Urban Development Department, Secretariat State of Telangana, Hyderabad.
2. The Metropolitan Commissioner, Hyderabad Metropolitan Development Authority., Hyderabad.
3. The Commissioner, Kothur Municipality, Kothur Mandal, Ranga Reddy District.

4. The Secretary, Union of India, Ministry of Environment, Forest and Climate Change, New Delhi.
 5. One CC to SRI. PRABHAKAR PERI Advocate [OPUC]
 6. One CC to SMT.D. MADHAVI, SC [OPUC]
 7. One CC to SRI. B. JAGAN MADHAV RAO, SC [OUT]
 8. Two CCs to GP FOR MCPL ADMN URBAN DEV (TG) ,High Court for the State of Telangana. [OUT]
 9. One CC to SRI G.Praveen Kumar, Depty Solicitor General of India
 10. Two CD Copies
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HIGH COURT

LKJ

DATED:03/11/2022



ORDER

WP.No.39654 of 2022

WP IS DISPOSED OF WITHOUT COSTS