

HIGH COURT FOR THE STATE OF TELANGANA

ROC No.474/SO/2020

DATE:18.03.2020

CIRCULAR No. 5/2020

Sub: High Court for the State of Telangana – Order dt. 11.3.2020 in WP(PIL) No. 398 of 2012 and Batch on the file of the High Court – Certain directions issued with regard to industrial pollution – Directions of the Hon'ble Court – Instructions issued.

Ref: Order dt. 11.3.2020 in WP(PIL) No. 398 of 2012 and Batch

The Hon'ble High Court, in WP(PIL) No. 398 of 2012 and Batch between Vinay Palnitkar and another Vs. The Greater Hyderabad Municipal Corporation, Hyderabad and others, has observed as under:

"Admittedly, a large number of notices have been issued by the GHMC, the Pollution Control Board and the Divisional Electrical Engineer (Operations), the respondent No.5. Therefore, a distinct possibility does exist that the industrial units, which are/were receiving notices, may approach the Court of law, and seek interim relief against the notices. Therefore, the Registrar General is directed to issue a circular to all the District Unit Heads, and to the other Courts clearly informing that these notices, so issued by the GHMC under Sections 521 and 622 of the GHMC Act, 1955, the notices issued by the Pollution Control Board under the Water (Prevention and Control and Pollution) Act, 1974, and the Air (Prevention and Control of Pollution) Act, 1981, and the notices issued by the Respondent No.5 (The Divisional Electrical Engineer (Operations), APCPDCL, Shivarampally Sub Station, Hyderabad) in the Public Interest Litigation case under the relevant Act, are relating to the matters, which are sub judice before this Division Bench of the High Court. A copy of this order shall also be sent by the Registrar General to all the Judicial Officers of the State."

Therefore, while enclosing a copy of the order dt. 11.03.2020 in WP(PIL) No. 398 of 2012 and Batch, all the Unit Heads in the State of Telangana are hereby directed to adhere to the directions of the Hon'ble Court as the matter is sub judice before the Hon'ble High Court and you are directed to forthwith communicate the Circular, along with copy of the High Court's order in WP(PIL) No. 398 of 2012 and Batch between Vinay Palnitkar and another Vs. The Greater Hyderabad Municipal Corporation, Hyderabad and others, to all the Judicial Officers in their respective Units with a direction to follow the instructions scrupulously.

The receipt of the circular may please be acknowledged.


REGISTRAR GENERAL
18.03.2020

To

1. All the Unit Heads in the State of Telangana.
2. All the Registrars, High Court for the State of Telangana (for information)
3. The Director, Telangana State Judicial Academy, Secunderabad.
4. The Section Officers, E-Section, OP Cell, High Court for the State of Telangana.

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

WEDNESDAY, THE ELEVENTH DAY OF MARCH
TWO THOUSAND AND TWENTY

:PRESENT:

**THE HONOURABLE THE CHIEF JUSTICE SRI RAGHVENDRA SINGH CHAUHAN
AND**

THE HONOURABLE SRI JUSTICE A.ABHISHEK REDDY

P.I.L. NO: 398 OF 2012

Between:

1. Vinay Palnitkar S/o Kamlakar Palnitkar
2. M.A. Rasheed S/o Mohd. Omer.



...Petitioners

AND

1. The Greater Hyderabad Municipal Corporation, Hyderabad, rep. by its Commissioner, Tankbund Road, Hyderabad.
2. The Deputy Commissioner, Greater Hyderabad Municipal Corporation, Rajendranagar Circle-VI, Hyderabad.
3. Andhra Pradesh Pollution Control Board, Paryavaran Bhavan, A-3, Industrial Estate, Sanathnagar, Hyderabad – 500 018.
4. The Commissioner of Labour, Government of Andhra Pradesh, T. Anjaiah Shramika Bhavan, RTC X Roads, Hyderabad.
5. The Divisional Electrical Engineer (Operations), APCPDCL, Shivarampally Sub-Station, Hyderabad.
6. The Chief Medical Officer of Health, GHMC, Head Office, Hyderabad.
7. The Inspector of Police, Shivarampally P.S., Cyberabad.

...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, order or direction more particularly in the nature of Writ Mandamus, declaring the in-action of the Respondents 1-7 for not taking action, in true letter and spirit, on the representations/dated 08-07-2003; 27-01-2011; 04-06-2012; 07-06-2012; 11-06-2012; 12-06-2012; 19-06-2012; 06-08-2012; 25-08-2012; 17-09-2012 submitted by all the residents of Shastripuram Colony as arbitrary, illegal violative of the Principles of Natural Justice and un-constitutional, being violative of their Fundamental Rights guaranteed under Article 21 of the Constitution of the India and issue the consequential direction to the Respondents 1 to 7 to shift out these illegal godowns, workshops and warehouses in open areas, and thereby safeguard the basic rights of these residents of Sashtripuram Colony along with to safeguard their basic right to stay safe in a HUDA approved residential Colony.

P.I.L.M.P. NO: 541 of 2012

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to direct the respondents 1 to 7 to consider the representations dated 08-07-2003; 27-01-2011; 04-06-2012; 07-06-2012; 11-06-2012; 12-06-2012; 19-06-2012; 06-08-2012; 25-08-2012; 17-09-2012 submitted by the residents of Shastripuram Colony, pending disposal of P.I.L.No.398 of 2012, on the file of the High Court.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and order dated 09.01.2020, 6.02.2020, 13.02.2020 & 03.03.2020 made herein and upon hearing the arguments of Smt. Pushpinder Kaur, Advocate for the petitioners and Sri N. Ashok Kumar, Sri R. Vinod Reddy, and Sri P. Shiv Kumar, Counsel for the Respondents, the Court made the following.

ORDER:

“The present Public Interest Litigation case is filed by the petitioners, *inter alia*, on the ground that there are a large number of industries, which are causing pollution in the Shastripuram area. The Shastripuram Co-operative Housing Society includes the Shastripuram and Mailardevpally Wards. These two Wards have different colonies, namely Dannammahuts, Rasheed colony, Kings colony, Matri colony, Rizwan colony, Binthrif colony, Shastripuram colony, and Tatanagar.

In compliance of the order, dated 03.03.2020, Mr. D. S. Lokesh Kumar, the Commissioner, GHMC, is present before this Court.

Mr. D. S. Lokesh Kumar has frankly conceded, and in the opinion of this Court, rightly so, that although in 2012, 198 units dealing with the plastic manufacturing, or recycling, were identified as the polluting industries, but no action has been taken against them by the GHMC for the last eight years. Moreover, although in 2016, certain Government Orders were issued by the Government, but no steps have been taken by the GHMC for implementation of the said Government Orders. It is only when this Court has started passing a series of orders beginning on 06.02.2020, and the last order on 03.03.2020, that GHMC has suddenly woken up to its legal responsibilities of ensuring that the polluting industries are dealt with sternly by the GHMC. Therefore, the GHMC has issued a series of notices to about 345 industries, including the 198 units working as plastic industries. He further submits that having issued the notices under Sections 521, 502 and 508 of the Greater Hyderabad Municipal Corporation Act, 1955 (for short, “the GHMC Act”), and having given seven days time to the industries to submit their replies, by another set of notices, dated 06.03.2020 and onwards, the industries have been issued with the closure notices. According to Mr. D. S. Lokesh Kumar, a period of thirty days needs to be given to these erring industries for closing their industries. Therefore, according to him, as the notices have been issued on 06.03.2020, and onwards, naturally, the period of thirty days needs to be observed, before the GHMC would be in a position to take further action against the erring industries.

He further submits that initially in the year 2012, 198 units dealing with the plastic recycling (23 units), plastic manufacturing units (13 units), and plastic sorting units (120 units) were identified. However, on 02.03.2020, the Member Secretary, Legal Services Authority, has submitted a report, wherein a recommendation has been made that, besides these three plastic industries, mentioned hereinabove, other industries should equally be included in the list of the polluting industries, namely scrap segregation godowns, tiles godowns, decoration, or decorative items being prepared industries, paper and binding industries, furniture industries, bedding industries, tent industries, and garages where the vehicles are repaired. In total, according to Mr. D. S. Lokesh Kumar, there are about 345 such units functioning in the Shastripuram area. He gives an undertaking that, even these industries would be supervised, controlled, and, if necessary, shifted, after following the procedure established by law.

In compliance with the order, dated 03.03.2020, the respondent No.3 in the Public Interest Litigation case, the Pollution Control Board, has also filed an affidavit. The same shall be taken on record.

According to the affidavit filed by Mr. M. Venkanna, the Environmental Engineer, on 02.03.2020, they had received a letter from the Deputy Commissioner, GHMC, Rajendranagar Circle-XI, whereby a list of unauthorized units located in the Shastripuram (143 in number, including the non-industrial activities), in the Tatanagar (197 in number, including the non-industrial activities) of Rajendranagar (M), Ranga Reddy District, was enclosed, with a request from the GHMC to take action under the Environmental Acts. It is only when the said letter was received that the Officers of the Pollution Control Board inspected the industries on 05.03.2020 and 07.03.2020. According to Mr. M. Venkanna, they discovered 59 industries dealing with the plastic recycling, and plastic manufacturing, which were working in the said areas.

Furthermore, according to Mr. M. Venkanna, the plastic units in the Shastripuram are operating without consent/authorization of the Board. Therefore, notices have been issued to these industries. He further undertakes to take appropriate action against these industries in accordance with law.

The affidavit filed by Mr. M. Venkanna is certainly revealing. For, according to the said affidavit, no action has been taken by the Pollution Control Board since 2012. Even after an order had been passed by the Hon'ble Lokayukta in the year 2017 directing that the industries in the Shastripuram should be closed within a period of six months, the Pollution Control Board did not discharge its duties under the law. In fact, it chose to maintain a steady silence while ignoring the orders passed by the Hon'ble Lokayukta. It is only when the GHMC has prodded the Pollution Control Board by its letter, dated 29.02.2020 that the Pollution Control Board woke up to its legal duties under the environmental laws.

Moreover, in compliance of the order, dated 03.03.2020, the Divisional Engineer, Operation, the respondent No.5 in the Public Interest Litigation case, has also filed an affidavit. Even according to them, it is only after the respondent No.5 received information from the GHMC that they have decided to take action against the erring industries. By the letter, dated 29.02.2020, the GHMC had requested the respondent No.5 to disconnect the electricity power supply to the 63 unauthorized plastic units functioning in the Shastripuram colony. The GHMC had further requested the respondent No.5 to disconnect the power supply to the 163 running units in the Tatanagar. Therefore, on 03.03.2020, notices have been issued to these erring industries, and according to the respondent No.5, further action shall be taken.

It is, indeed, a sorry state of affairs, if not, a shocking state of affairs, that the competent authorities, who are meant to protect the people from pollution and other environmental hazards, are deep in coma since 2012 till 2020. For eight long years the GHMC, and the Pollution Control Board have permitted the polluting

industries to mushroom in the Shastripuram area. It is only a single area of the city which has been identified. Therefore, a distinct possibility does exist that even in the other areas of the city, illegal industries are permitted to run while polluting the air, water, and the surrounding lands of the city. Meanwhile, the people are left to fend for themselves, while suffering a deteriorating air environment, and water environment. Yet, despite the laxity on the part of the GHMC, the Pollution Control Board, and the Power Companies, people are constantly reminded that there is good governance in the State, that the competent authorities are, indeed, protecting the people from the deteriorating pollution environment.

Needless to say, the environmental issues, especially, pollution issues are a burning topic that adversely affects the lives of everyone, from a child to an old man, or a woman. Pollution is a silent killer that adversely affects even the development of an unborn child. And yet surprisingly, the competent authorities, who are supposed to protect the residents of the city, have abdicated their responsibility to a great extent.

Therefore, this Court directs Mr. D. S. Lokesh Kumar, the Commissioner, GHMC, and the Chairman of the Telangana State Pollution Control Board, to submit a complete report with regard to the steps taken by their Organisations from 2012 till present against the erring industries. Since, Mr. D. S. Lokesh Kumar, has been frank enough to concede that no action has been taken by the GHMC from 2012, he is directed to furnish a list of those Deputy Commissioners, who are/were responsible for inspecting, supervising, and controlling the mushrooming of the polluting industries in the Shastripuram area. Mr. D. S. Lokesh Kumar is further directed to spell out the steps that the GHMC plans to take departmentally against its erring Officers, and to spell out the steps he proposes to take against the erring units. He is further directed to inform this Court, by the next date, about the steps taken against the erring units in furtherance of the closure notices dated 06.03.2020 onwards.

Similarly, the Chairman of the Telangana State Pollution Control Board is directed to submit a complete report about the steps taken, if any, by the Pollution Control Board against the erring units from 2012 to 2020. And, in case no action has been taken, the reasons for not taking any action against the erring units. Furthermore, he is directed to inform this Court about the concrete steps taken by the Pollution Control Board after the issuance of the notices, as claimed by the Board in its affidavit mentioned hereinabove.

Likewise, the respondent No.5 in the Public Interest Litigation case is directed to submit a more detailed affidavit. For, the present affidavit submitted by Mr. Laxminarayana, the Divisional Engineer, Operation, is highly vague, and incomplete in its content and scope. The respondent No.5 is directed to submit the copies of all the notices issued, as claimed by them in the said affidavit. They are further directed to inform this Court with regard to the concrete steps taken in pursuance of the notices, allegedly, sent by them to the erring units.

These affidavits shall be filed by the respondents on or before 05.04.2020.

Mr. D. S. Lokesh Kumar, Commissioner, GHMC, and the Chairman of the Telangana State Pollution Control Board, are directed to be present before this Court on 07.04.2020.

Admittedly, a large number of notices have been issued by the GHMC, the Pollution Control Board, and the Divisional Electrical Engineer (Operations), the respondent No.5. Therefore, a distinct possibility does exist that the industrial units, which are/were receiving notices, may approach the Court of law, and seek interim relief against the notices. Therefore, the Registrar General is

directed to issue a circular to all the District Unit Heads, and to the other Courts clearly informing that these notices, so issued by the GHMC under Sections 521 and 622 of the GHMC Act, 1955, the notices issued by the Pollution Control Board under the Water (Prevention and Control of Pollution) Act, 1974, and the Air (Prevention and Control of Pollution) Act, 1981, and the notices issued by the respondent No.5 in the Public Interest Litigation case under the relevant Act, are relating to the matters, which are *sub judice* before this Division Bench of the High Court. A copy of this order shall also be sent by the Registrar General to all the Judicial Officers of the State.

List these cases on 07.04.2020.”

SD/- CH. VENKATESWAR
ASSISTANT REGISTRAR

//TRUE COPY//


SECTION OFFICER

To,

1. The Commissioner, The Greater Hyderabad Municipal Corporation, Hyderabad, Tankbund Road, Hyderabad.
2. The Deputy Commissioner, Greater Hyderabad Municipal Corporation, Rajendranagar Circle-VI, Hyderabad.
(Addressees 1 & 2 by SPL. MESSENGER)
3. Mr. K. Pradeep Kumar, the Deputy Commissioner, Greater Hyderabad Municipal Corporation, Circle -11, Rajendra Nagar, R.R.District (By Special Messenger)
4. Mr.G.V.Subrahmanyam, Member Secretary, Telangana Legal Services Authority, Hyderabad (By Special Mesenger)
5. Andhra Pradesh Pollution Control Board, Paryavaran Bhavan, A-3, Industrial Estate, Sanathnagar, Hyderaad – 500 018.(BY SPL. MESSENGER)
6. The Commissioner of Labour, A.P., Hyderabad.
7. The Divisional Electrical Engineer (Operations), APCPDCL, Shivarampally Sub-Station, Hyderabad.
8. The Chief Medical Officer of Health, GHMC, Head Office, Hyderabad.
9. The Inspector of Police, Shivarampally P.S., Cyberabad (RR-6 to 9 by RPAD).
10. ~~The Registrar General, High Court for the State of Telangana, at Hyderabad~~
11. Smt. Pushpinder Kaur, Advocate (OPUC)
12. One CC to Sri N. Ashok Kumar, Advocate (By Spl. Messenger)
13. One CC to Sri T.V. Ramana Rao, Advocate(OPUC)
14. One CC to Sri P. Shiv Kumar, Advocate (OPUC)
15. Two spare copies

HIGH COURT

HCJ & AAR.J

DATED: 11.03.2020

NOTE: LIST THIS CASE ON 07.04.2020

ORDER

WP(PIL).NO.398 OF 2012

DIRECTION

A-21

*Registru
general*