HIGH COURT OF JUDICATURE AT HYDERABAD

FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

PRESENT

THE HON'BLE THE CHIEF JUSTICE SRI KALYAN JYOTI SENGUPTA

AND

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PTITION NO.9874 OF 2015

DATED:8.4.2015

Between:

Cherabuddi Education Society

Vasthunagar

Mangalapalli Village

Ibrahimpatnam Mandal

RR District

Rep. By its President Mr. Raghava Cherabuddi

and others

… Petitioners

And

State of Telangana

Rep. by its Principal Secretary

Panchayat Raj and Rural Development Department

Secretariat Buildings

Hyderabad

and another … Respondents

THE HON'BLE THE CHIEF JUSTICE SRI KALYAN JYOTI SENGUPTA

AND

THE HON'BLE SRI JUSTICE SANJAY KUMAR

-

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ORDER: (per the Hon'ble The Chief Justice Sri Kalyan Jyoti Sengupta)

Without inviting counter affidavit, we dispose of this writ petition by the following order as the issue involved is in a narrow compass, i.e., as to whether the appeal of the petitioners can be heard by the appellate authority without requiring to deposit of the amount as required under Rule 20 of the Rules Relating to Certain Taxes & Other Lodging of Moneys Received by the Gram Panchayat and Payment of Money from the Gram Panchayat Fund. The aforesaid Rule is set out hereunder:

"20. No appeal to a Gram Panchayat shall be heard –

(i) unless it reaches the office of the Gram Panchayat before the date fixed for the payment of tax complained of; and

(ii) unless, except when the executive authority otherwise directs on the ground of poverty, the tax in respect of which the appeal is presented has been paid or deposited at the office of the Gram Panchayat before the date referred to in clause (i):

Provided that the Gram Panchayat may admit an appeal within fifteen days after the date referred to in clause (i), if cause is shown to its satisfaction for not preferring before the said date."

It is an admitted position that the petitioners have not deposited nor paid the amount as demanded by the respondent Gram Panchayat, obviously their appeal has been dismissed. We are of the view that the appeal should not have been dismissed. The aforesaid Rule requires that the appeal should not be heard, meaning thereby appeal should be kept pending, but at the same time, if the tax is not paid or deposited, obviously recovery proceedings can be initiated, and that is what has happened in this case.

Under these circumstances, we think the following order would sub-serve the interest of justice.

The petitioners shall pay 50% of the amount demanded by the respondent Gram Panchayat and the remaining 50% shall be secured by bank guarantee from any nationalised bank of the local area. To enable the petitioners to do so, as an interim measure, there shall be an order to the effect that no coercive measures shall be taken in this matter against the petitioners for a period of fifteen days from date. In the event the aforesaid requirements are complied with, then this order will continue till a decision is taken by the appellate authority. Obviously the appellate authority will hear the matter and take a decision in accordance with law. Before proceeding in terms of this order, the panchayat authority concerned shall give adjustment to the amount, if any, paid by the petitioners, as against alleged demand.

The writ petition is accordingly disposed of.

Pending miscellaneous petitions, if any, shall stand closed. There will be no order as to costs.

K.J. SENGUPTA, CJ

SANJAY KUMAR, J

8.4.2015

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