

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF
ANDHRA PRADESH**

WRIT PETITION No.22236 of 2015

Between:

Shimadri Ramakoteswaramma,
W/o. (late) Namcharaiah,
Aged about 68 years, Occ: Agriculture,
R/o. H.No.1-792, Ramalayam Street,
Parchur, Prakasam District,
Andhra Pradesh, Pin – 523619.

.. Petitioner

AND

State of Andhra Pradesh,
Rep. by its Principal Secretary,
Panchayat Raj Department,
Secretariat, Hyderabad & 2 others

.. Respondents

DATE OF JUDGMENT PRONOUNCED: 20.07.2015

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

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| 1 | Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2 | Whether the copies of judgment may be marked to Law Reports/Journals | Yes/No |
| 3 | Whether His Lordship wish to see the fair copy of the Judgment? | Yes/No |

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HON'BLE SRI JUSTICE P.NAVEEN RAO

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ORDER:

According to the petitioner, building approval permission was granted in the year 2002, but due to some personal reasons, she could not undertake construction immediately. Basing on the said building approval, recently the petitioner started construction, when obstructions are created. However, the petitioner has applied for fresh building plan. Alleging that there was an inordinate delay in granting approval, the petitioner instituted W.P.No.491 of 2015. This Court disposed of the writ petition, by order, dated 20.01.2015, directing the Panchayat Secretary, Parchur Grampanchayat, Parchur Village and Mandal, Prakasam District, to consider the same and pass appropriate orders, in accordance with law, within a period of four (4) weeks.

2. In pursuant to the said orders, the Panchayat Secretary, Parchur Grampanchayat, Parchur Village and Mandal, Prakasam District (3rd respondent), passed orders on 25.02.2015 rejecting the building application of the petitioner by pointing out certain lapses in the building plan and suggested the petitioner to undertake certain setbacks and carry out certain corrections and re-submit the building plan for approval. Aggrieved by the said orders, this writ petition is filed.

3. Learned Standing Counsel submits that in accordance with the provision contained in Section 128 of the Panchayat Raj Act, 1994 (for short, 'the Act'), an appeal shall lie to the Gram Panchayat against any decision of the Panchayat Secretary and, therefore, the petitioner ought to have availed the remedy of appeal and without exhausting the remedy of appeal, this writ petition is filed.

4. As seen from the provision contained in Section 128 of the Act against any decision of the executive authority of the Gram Panchayat granting, refusing, suspending or revoking a licence or permission, an appeal shall lie to the Gram Panchayat. Without exhausting the said appeal, this writ petition is filed. No reasons are assigned in the writ petition as to why the petitioner has not availed the remedy of appeal and what compelled him to invoke the jurisdiction. Since the remedy provided under Section 128 of the Act is efficacious and effective remedy, the petitioner has to avail the said remedy before invoking the jurisdiction of the writ Court. In fact, against the decision of the Gram Panchayat, second appeal also lies. Only after the statutory remedies are availed, the petitioner can invoke the jurisdiction of this Court. Thus, it is premature for the petitioner to invoke the jurisdiction of this Court under Article 226 of the Constitution of India.

5. By leaving it open to the petitioner to avail the remedy of appeal as provided under Section 128 of the Act, the Writ Petition is dismissed. It is needless to observe that as and when the appeal is filed by the petitioner, the appellate authority shall take a decision by duly considering all the objections of

the petitioner against the decision of the Panchayat Secretary, Parchur Grampanchayat, Parchur Village and Mandal, Prakasam District (3rd respondent), dated 25.02.2015, within a period of four (4) weeks. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in these writ petitions shall stand closed.

P.NAVEEN RAO, J

Date: 20th July, 2015

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HON'BLE SRI JUSTICE P.NAVEEN RAO

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