

HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

W.P.No.20751 of 2014

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ORDER:

Heard.

The petitioners complains of inaction on the part of official respondents in not stopping or preventing illegal construction of platform for installation of statue of late Sri Babu Jagjivan Ram by respondents 9 and 10 in front of the 8th respondent's office. The petitioners allege that respondents 9 and 10 without obtaining necessary permission from the authorities concerned started construction for erection of the said statue. The petitioners state that since no statue is permitted in terms of G.O.Ms.No.55, dated 08-12-2003, the revenue authorities as well as gram panchayat are duty bound to implement the said G.O. and cannot permit such unauthorized structures to come out.

A counter affidavit is filed by the 2nd respondent, wherein it is stated that a complaint was received from the petitioners and others and based on that, the Village Revenue Officer, Binginapalli has enquired into the matter and reported on 06-08-2014 that a cement basement with pillars and on the pillars, one basement adjacent to the front side of the compound wall of Gram Panchayat, Binginapalli, was constructed by unknown persons. It is also reported that the said construction was done high handedly without obtaining permission from the Government. The Panchayat Secretary, Binginapalli, who is the office incharge of Gram Panchayat, has also submitted his report stating that the said illegal constructions were stopped and a notice was pasted on the notice board of the Gram Panchayat, Binginapalli, stating that no construction shall be made in front of the Gram Panchayat.

The counter affidavit further states in paras '6' and '7' as follows:-

"In reply to Para '7' of the affidavit, it is submitted that as per Government orders issued vide G.O.Ms.No.18, dated 18-02-2013, it is clear that any group of persons, who want to erect a

statue of National Leader, they have to get permission of the concerned authorities in advance. But, the unofficial respondents did not get any permission from Gram Panchayat, Binginapalli Village and Revenue authorities or acquired the land from any person. The Panchayat Secretary, Binginapalli village has failed to brought it to the notice of the Mandal Parishad Development Officer, Singarayakonda and District Panchayat Officer, Ongole or to the Revenue authorities in advance about the illegal action of respondents 9 and 10 who have constructed platform with pillars in an extent of 4 sq. feet. It is noticed that there is a dispute in between two groups of S.C. locality in Binginapalli village and hence one group of people have constructed the said construction illegally without any permission. I humbly submit that on receipt of the report of the Panchayat Secretary, Binginapalli village. The Tahsildar responded by instructing the Station House Officer, Singarayakonda to maintain law and order and peaceful situation in the village. The contention of the petitioner's is not correct.

In reply to para '8' of the affidavit, it is submitted that the contention of the petitioner is not correct. It is submitted that immediately after receipt of the report of the Panchayat Secretary. The Tahsildar asked the Station House Officer, Singarayakonda Mandal to maintain Law and Order and peaceful situation in the village. It is further submitted that the custodian of the Grama Kantam is the Gram Panchayat who failed to give a complaint to the Station House Officer about the irregular encroachment of the road and make illegal constructions on the main road of Binginapalli village. It is submitted that even though the Village Revenue Officer, Binginapalli village is watching every day about the illegal constructions in the village, the constructions were made in the night times, by respondents 9 and 10 and hence the irregular constructions were not able to stop. Subsequently, the Panchayat Secretary and Village Revenue Officer, Binginapalli village have submitted their reports to the Tahsildar, Singarayakonda Mandal and hence, the irregular constructions were not able to stop. Subsequently, the Panchayat Secretary and Village Revenue Officer, Binginapalli village have submitted their reports to the Tahsildar, Singarayakonda Mandal about illegal action of respondents 9 and 10. There are no merits in the writ petition and the same is liable to be dismissed."

The 8th respondent has filed counter affidavit reiterating that no such permission was granted in favour of any body under G.O.Ms.No.55, dated 08-04-

2003 and stated that group of villagers, who have started digging the road margin adjacent to the southern side of the Gram Panchayat office for erection of statue, were prevented by the Gram Panchayat. Later, they shifted the erection of statue to eastern side of the Gram Panchayat office and when group of villagers approached the District Panchayat office with a request to take necessary action against the unofficial respondents, the District Panchayat Officer issued Memo, dated 03-07-2014 to the Executive Officer of Panchayat Raj and Rural Development, Singarayakonda for taking necessary steps to prevent unwarranted situation in the village. It is specifically stated that a public notice was given on 01-08-2014 stating that if anybody is having permission under G.O.Ms.No.55, dated 08-04-2003, must approach the Gram Panchayat on or before 06-08-2014.

It is appropriate to extract paragraph '8' of the said counter, which reads as under:-

"I submit that according to G.O.Ms.No.55, dated 08-04-2003 issued by R & B Department, the District Collector is the competent authority for granting permission for erection of statues on the road margins. So far the unofficial respondents or the villagers who have proposed for erection of the statue have not obtained any permission from the District Collector. However, the situation in the village is explode and also tension between two groups. The group of the unofficial respondents is threatening the official respondents if they are not allowed to proceed with the erection of statue. Meanwhile, the interim orders passed by this Hon'ble Court were served on the unofficial respondents. This respondent has also issued a public notice not to unveil the statue in pursuance of the orders of this Hon'ble Court. If the unofficial respondents are so interested they would have approached the District Collector for obtaining permission for erection of the statute."

The counter affidavit further states that the 8th respondent has taken all necessary steps for preventing highhanded, illegal and unauthorized erection of statue. But, in spite of that, it is stated that statue appears to have been erected, but it is covered with clothes and as per the interim direction of this court, the same is not unveiled. The Sarpanch of the village is also trying to negotiate with the elders in the village to settle the dispute amicably.

Learned counsel appearing for respondents 9 and 10 have filed separate counters

denying that they have played any role in the alleged acts and attempting to erect statute and the petitioners' allegations made in the affidavit against respondents 9 and 10 are also denied.

Considering the contentions on either side and after considering the pleadings, as referred to above, it is evident that no such permission as required under G.O.Ms.No.55 is given in favour of anybody and consequently, the attempt for erection of any statute without complying with G.O.Ms.No.55 is clearly impermissible. The revenue authorities as well gram panchayat stated that they have taken all necessary steps to prevent such illegal erection of statute and now it is stated that appropriate steps are being taken to ensure that G.O.Ms.No.55 is not violated by anybody.

In view of that, the writ petition is disposed of directing the District Collector as well as the Gram Panchayat to take all necessary steps for implementing G.O.Ms.No.55, dated 08-04-2003 and also to ensure that there is a peace and tranquillity in the village.

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

VILAS V.AFZULPURKAR, J

Date: 26-03-2015

Prv

