

**THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN**  
**And**  
**THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY**

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**WRIT PETITION No.339 of 2014**

**ORDER:** (per Hon'ble Sri Justice Ramesh Ranganathan)

The appeals were dismissed for non-prosecution, as the petitioners' counsel was absent. Sri N.Aswartha Narayana, learned counsel for the petitioners, who was also the counsel before the State Commission, states that, due to unavoidable circumstances, he was unable to appear and prosecute the matter; and, for his fault in not appearing before the State Commission, the petitioners, who are all small and marginal farmers, should not suffer. Learned counsel would further state that the amount claimed by the petitioners herein is meagre; and relegating them to the remedy of invoking the jurisdiction of the National Commission at New Delhi, would cause them irreparable injury.

While both Sri B.Venkateswara Rao, and Sri M.Srikanth Reddy, learned counsel for the respondents, would oppose such a request, we see no reason to now relegate the petitioners to the remedy of approaching the National Commission, as the amounts claimed by the petitioners, who are all marginal farmers and small agriculturists, is meagre; they would suffer irreparable hardship of having to incur huge expenditure if they were now to be directed to approach the National Commission; and as the appeals were dismissed by the State Commission not on merits, but for the absence of their counsel, they should be given an opportunity of being heard.

As held by the Supreme Court, in **L.Chandra Kumar v. Union of India**<sup>[1]</sup>, the power of judicial review under Article 226 of Constitution of India is a part of the basic structure of the Constitution. This power cannot be circumscribed or fettered even by a

constitutional amendment, let alone by legislation-plenary or subordinate. While this Court would, ordinarily, refrain from interference if an alternate remedy is available to the petitioner, that by itself does not mean that this Court is barred from exercising its jurisdiction, under Article 226 of the Constitution, to interfere in an appropriate case. As the impugned order, passed by the State Commission, is for non-appearance of the counsel, we see no reason to deny the petitioners, an opportunity of being heard, more so they are not to blame for the absence of their counsel during the course of hearing.

Sri N.Aswartha Narayana, learned counsel for the petitioners, states that, in case the matter is sent back to the State Commission, he would appear and prosecute the case with due diligence. The impugned order, dismissing the appeal for default, is set aside and the matter is remanded to the State Commission to decide the appeals in accordance with law.

The Writ Petition is disposed of accordingly. Miscellaneous petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

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**RAMESH RANGANATHAN, J**

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**M.SATYANARAYANA MURTHY, J**

02<sup>nd</sup> February, 2015.

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[\[1\]](#) AIR 1997 SC 1125