

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

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Writ Petition No.20612 of 2008

ORDER:

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This writ petition is filed under Article 226 of the Constitution of India seeking the following relief/s:

‘.....to issue an appropriate writ order or direction more one in the nature of WRIT OF MANDAMUS declaring the action of the respondents herein in issuing the Tender Notification D.P.R. RO No.2903/CL/ADVT/1/1/2008 dated 10-9-2008 calling tenders for the construction of Government Junior College Buildings at Play Ground of Z.P.High School, Aravapalli village, Nagireddypally Gampanchayat, Kadapa district and consequential action of the respondents in calling tenders D.P.R. RO No.2903/CL/ADVT/1/1/2008 dated 10-9-2008 of the 3rd respondent herein as illegal, arbitrary and biased and pass such other order....’

[Reproduced verbatim]

2. I have heard the submissions of the learned counsel for the petitioner, the learned Government Pleader for Panchayat Raj appearing for the respondents 1 and 2, the learned Standing Counsel appearing for the 2nd respondent and the learned Government Pleader for Higher Education appearing for the respondents 4 and 5. I have perused the material record.

3. The case of the writ petitioner, as set out in the affidavit filed in support of the petition, in brief, is this:

She is the Sarpanch of Nanadalur Gram Panchayat. At present the Zilla Parishad High School, Nandalur and the Government Junior College are situated in one premises at Nandalur. The Junior College was established in the year 1981 with the funds of the Gram Panchayat and the donations given by the villagers. The College, which is situated in Nandalur, is catering to the needs of twelve (12) villages. There is transport facility to the students. The Zilla Parishad High School, Nandalur has got a play ground of an extent of Ac.7.05 cents in

Aravapally village, Nagireddypally Panchayat. Nandalur Gram Panchayat is the head quarters of Nandalur Mandal and Nandalur is the Gram Panchayat's head quarters since the British times. Thus, Nandalur Panchayat is a noted and convenient place for all purposes. The sports of the Zilla Parishad High School will be conducted at the sports ground which is situate at Aravapally village of Nagireddypally Panchayat. The Inter District sports will also be conducted in the said ground. Now, at the instance of Smt. K. Prabhavathamma, the M.L.A (Congress party), it is proposed to shift the Government Junior College, Nandalur to the play ground of Z.P. High School, Nandalur situated at Aravapally though the existing premises of the college is convenient for the students at Nandalur and other villages. Vidya Committee of the Z.P. High School has passed a resolution opposing the shifting of the Government Junior College from Nandalur to the play ground of Z.P. High School situated at Aravapalli village. The Head-Master of the Z.P. High School, Nandalur also wrote a letter dated 05.07.2008 to the Chief Executive Officer, Zilla Praja Parishad, Kadapa by enclosing the resolution of Vidya Committee, Z.P.H.S, Nandalur wherein it was stated that it is not possible to shift the Government Junior College, Nandalur to the play ground of Z.P. High School, Nandalur situate at Aravapally village of Nagireddipally Panchayat and requested to take steps for recovery of the possession of the land in an extent of Ac.3.45 cents at Aravapally, which was encroached by the villagers and over which houses were constructed. In case, the Government Junior College at Nandalur is shifted to the Nandalur Z.P. High School's play ground at Aravapally the students will be put to hardship and there will not be any play ground for the students and it would be very difficult to conduct Inter District sports. That playground is also being used for conducting cultural programmes of the Z.P. High School. The proposed shifting of the Government Junior College thus causes hardship. The said proposal was made due to political rivalry. While so, the Superintending Engineer, Panchayat Raj

Circle, Kadapa had issued a tender notification dated 10.09.2008 and the said tender notice was published in Sakshi daily news paper dated 12.09.2008; and if the tender process for construction of the buildings of the Junior College is completed, the students of the Government Junior College, Nandalur and the Nandalur Gram Panchayat would be put to hardship. The proposed shifting of the Government Junior College, Nandalur to the play ground of the Z.P. High School situated at Aravapally is illegal, arbitrary and biased. Hence the writ petition is filed.

4. The 2nd respondent, the then Chief Executive Officer, Zilla Praja Parishad, had filed a counter supporting the case of the writ petitioner. While supporting the petitioner's case in all respects, it is *inter alia* stated in the counter that in anticipation of the approval of the Government, the General Body of Zilla Praja Parishad *vide* Resolution no.408 dated 03.05.2006 had resolved for construction of Government Junior College in the play ground of Z. P. High School, Nandalur, which is located at Aravapally, and that subsequently, the Vidya Committee Chairman and the Sarpanch of Nandalur have submitted resolution stating that out of the total extent of Ac.7.05 of the play ground, the present available area of play ground is Ac.3.60 cents on account of encroachment of Ac.3.45 cents by the villagers and that the said remaining extent is not sufficient to construct the Junior College and that the extent of land that may be left for utilization as play ground will not be sufficient to conduct any school sports, District sports and cultural programmes and that the students would be put to lot of sufferance.

5. The learned counsel for the parties had made submissions in line with the respective pleadings.

6. Before proceeding further, it is pertinent to note that this Court, on 29.09.2008, while admitting the writ petition had granted interim order directing that the proposed tender process may go on but the

commencement of the work shall be deferred by four (04) weeks from that day. Subsequently, on 15.11.2008 the above interim order was extended until further orders. At the hearing, it is submitted that in view of the interim orders, no work was executed. Be that as it may.

7. From the submissions in the pleadings of the parties, it emerges that the Z.P. High School, Nandalur is having its play ground at Aravapalli and its total extent is Ac.7.05 cents and that out of the said total extent, Ac.3.45 cents was encroached by the villagers leaving the remaining Ac.3.60 cents for use as play ground and that in the said remaining extent it is now proposed to construct a building for the Junior College with a view to shift the Junior college now located at Nandalur to the said proposed building at Aravapally and that as a measure of implementing the said proposal tender notification, which was impugned was issued. The said proposed shifting of the junior college to the proposed building to be constructed in the Nandalur Z P High School's play ground at Aravapally, is being opposed on the grounds that the proposed shifting of the junior college from the present conveniently located place to Aravapally causes inconvenience to the students and the villagers and that the said proposal made for political reasons is not in the interests of the students and the villagers. The various grounds, which are stated in the writ petition, find support from the counter affidavit. Further, a portion of the play ground was under encroachment is also not in dispute.

8. Having regard to the undisputed facts and valid grounds, which emerge from the submissions of both the sides, it is just and fair to grant an order as prayed for.

9. Accordingly, the Writ Petition is allowed as prayed for. There shall be no order as to costs.

In view of the undisputed fact that the play ground of the ZP high

School of Nandalur which is situated at Aravapally is under encroachment due to illegal occupation of the same by some of the villagers, this Court finds it apt to direct the respondents to take appropriate measures as per law for the removal of the encroachments in the said play ground and restore vacant possession of the same to the Z P High School, Nandalur. The respondents concerned shall start the said exercise in strict accordance with the procedure established by law as expeditiously as possible and at any rate not later than a month from the date of the receipt a copy of the order.

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

M. SEETHARAMA MURTI, J

20th January 2016
Vjl