

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE SMT JUSTICE ANIS

WRIT PETITION No. 25283 of 2016

ORDER: (*Per VRS,J*)

On a complaint lodged by the 5th respondent herein, seeking action against the Mandal Authorities for not removing the encroachment allegedly caused by the writ petitioner, the Upa-Lokayukta passed an order directing the petitioner to remove the alleged illegal construction. Aggrieved by the said order passed without notice to him, the petitioner has come up with the present writ petition.

2. Heard Mr. T.P.Acharya, learned counsel for the petitioner, learned Government Pleader for Panchayat Raj, Mr. G. Narender Reddy, learned standing counsel for ZPP & MPP, and Mr. Y. Ravindra, learned standing counsel for Upa-Lokayukta.

3. It is apparent from the impugned order of the Upa-Lokayukta that upon receipt of the complaint from the 5th respondent, the Upa-Lokayukta directed the District Panchayat Officer to submit a report. He submitted a report, after an enquiry by the Extension Officer. However, no notice was issued to the petitioner before a direction for removal of the illegal construction was passed against

him. Therefore, the impugned order is actually violative of the principles of natural justice.

4. However, it is contended by the learned Government Pleader that the Panchayat did not merely take action solely on the basis of the complaint lodged by the 5th respondent and the order passed by the Upa-Lokayukta. According to the learned Government Pleader, the official respondents themselves took action for removal of the encroachment, and that the order of the Upa-Lokayukta was one of the several causes for the attempted removal of the illegal encroachment.

5. But, we are unable to agree with the learned Government Pleader. If the official respondents had stated before the Upa-Lokayukta that they will proceed in accordance with law on the basis of the complaints received by them, it would have been a different matter. Today, the Mandal Authorities have made use of the order of the Upa-Lokayukta passed without notice to the petitioner, to remove the encroachment. Therefore, the same cannot be approved.

6. In the light of the above, the Writ Petition is allowed and the impugned order of the Upa-Lokayukta is set aside. However, it will be open to the respondents 3 and 4 to take any action independently, in accordance with the statutory provisions, for removal of the encroachment, if there is any such encroachment.

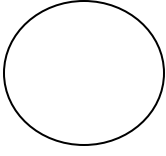
Consequently, miscellaneous petitions if any pending in the writ petition shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

ANIS, J.

7th September, 2016
cbs





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