

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.12954 of 2017

ORDER:

This Writ Petition filed under Article 226 of the Constitution of India, challenges the order bearing Proc.No.6206/2016-B2(Pts), dated 14.03.2017, passed by the District Panchayat Officer, Ranga Reddy, third respondent herein.

Heard learned counsel for petitioner, learned Government Pleader for Panchayat Raj appearing for respondents 1 to 3 and Sri G. Narender Reddy, learned Standing Counsel for respondent No.4.

Followed by a resolution, dated 06.02.2017, passed by the fourth respondent Gram Panchayat, its Panchayat Secretary informed one Sri A. Yadaiah vide letter, dated 18.01.2017, about the permission granted for construction of Yellamma Temple in the open space behind Pochamma Temple in the Village. On the complaint of Sri A. Yadaiah, a third party, the third respondent by the order under challenge cancelled the permission accorded by the fourth respondent Gram Panchayat in the purported exercise of powers conferred under Rule 28 of the Rules notified vide G.O.Ms.No.67, Panchayat Raj and Rural Development (Pts.IV) Department, dated 26.02.2002. The grievance precisely in the present Writ Petition is, the impugned order passed by the

third respondent was not preceded by any notice and opportunity to the petitioner. It is submitted by the learned counsel for the petitioner that the impugned order is illegal, arbitrary and totally violative of principles of natural justice.

At the hearing, learned Government Pleader produced before this Court a copy of written instructions furnished by the third respondent and the same is placed on record.

A perusal of the said instructions shows that the Extension Officer (Panchayat Raj and Rural Development), Yacharam Mandal, submitted a report stating that the Gram Panchayat violated the conditions mentioned in G.O.Ms.No.35, Panchayat Raj and Rural Development (Pts.II) Department, dated 22.12.2014, but it does not refer to issuance of any notice before resorting to the impugned cancellation. On this ground alone, the impugned order is liable to be set aside.

Accordingly, the Writ Petition is allowed, setting aside the impugned order passed by the third respondent and keeping it open to the respondents to take action in accordance with law, after giving notice and opportunity to the persons concerned.

Consequently, Miscellaneous Petitions, if any pending in this Writ Petition, shall stand disposed of. No order as to costs.

A.V.SESHA SAI, J

12th APRIL, 2017.
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