

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

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WRIT PETITION Nos.33442 of 2014 and 23581 of 2017

Between:

Geddam Syamala and others

....Petitioners

and

The State of Andhra Pradesh,
Rep.by its Principal Secretary, Panchayat Raj Department,
Secretariat, Hyderabad,
And others.

....Respondents

JUDGMENT PRONOUNCED ON

: 15.09.2017

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO :

1. Whether Reporters of Local newspapers may be allowed to see the Judgments? : Yes
2. Whether the copies of judgment may be Marked to Law Reporters/Journals? : No
3. Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? : No

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION Nos.33442 of 2014 and 23581 of 2017

COMMON ORDER:

These two Writ Petitions are being disposed of by this common order as they relate to the construction of the Panchayat Office in Nelamuru Village, Penumantra Mandal in West Godavari District.

Heard the learned Counsel for the petitioners, learned Government Pleader and the learned Standing Counsel for the Gram Panchayat.

W.P.No.33442 of 2014 was filed by the Ward Members of the Gram Panchayat stating that one Sri K.Rama Raju donated some land to the Gram Panchayat for construction of Panchayat Office in the middle of the Village for the benefit of the villagers in the year 1988. The sixth respondent, who is now the Sarpanch of the Village, called for an urgent meeting on 21.10.2014 and the agenda item relating to the construction of Gram Panchayat building was discussed. They filed the Writ Petition stating that the sixth respondent is trying to get construction permission and financial sanction for the Gram Panchayat building on the outskirts of the Village in Oora Cheruvu by filling the said tank. Though they submitted a representation on 24.10.2014, when no action was taken, they filed the said Writ Petition.

This Court, by order dated 07.11.2014, restrained respondent Nos.5 and 6 in W.P.No.33442 of 2014 from taking any further steps for making construction of Gram Panchayat Office in the tank land. The vacate petitions filed for vacating the said order were dismissed on 20.01.2016. The Writ Appeal No.799 of 2017 filed against the said order is pending. Respondent Nos.5 and 6 in W.P.No.33442 of 2014 filed separate counter affidavits.

As per the counter affidavit filed by respondent No.5, the population of the Gram Panchayat is 2400 and the existing building of the Gram Panchayat was constructed about 27 years ago. It is in a dilapidated condition. Though the earlier Committee tried to get the funds for construction of a new Panchayat Office, they could not succeed. The Union of India allotted funds for construction of new Gram Panchayat Office buildings in identified Villages under MGNREGS scheme and the Nelamuru Gram Panchayat is one among them. The members of the Gram Panchayat took a decision to construct a new Panchayat Office building in the land adjacent to Oora Cheruvu tank. The said site was inspected by the Engineering Department of Panchayat Raj, Penumantra Mandal, and they gave approval. The estimate was prepared for a sum of Rs.2.00 lakhs and the plinth area is 52 x 22 feet. While giving the estimation, the Assistant Executive Engineer, Penumantra, took care to see that the water tank of Oora Cheruvu is protected. Accordingly, a foundation was laid on 24.10.2014 by the

Hon'ble Minister for Endowments. Since no funds were allotted by the Union of India, funds have to be drawn from the Gram Panchayat and, accordingly, a resolution was passed on 21.10.2014. Prior to that, the Grama Sabha unanimously resolved for construction of the new Gram Panchayat Office building on 02.10.2014. Though the petitioners opposed to sign in the attendance register, they were very much present at the time of the meeting. The location of the proposed building is also situated in the middle of the Village and convenient to all public. The tank is not being filled up as alleged by the petitioners. The representation of the petitioners dated 21.10.2014 relates to cancellation of the special meeting convened and the building was proposed to be constructed without damaging the tank.

The counter affidavit filed by respondent No.6 in W.P.No.33442 of 2014 states that the petitioners, being Ward Members, instead of cooperating for the development of the Gram Panchayat are acting adverse to the interest of the Gram Panchayat though no villager expressed any grievance. The petitioners are supporters of one Sri Nagaraju Venkat Rama Raju, who was defeated by him in the Panchayat elections and he is behind the litigation. The existing Gram Panchayat building is in a bad state. The meeting on 21.10.2014 was conducted with sufficient quorum and a resolution was passed. Instead of challenging the resolution, the petitioners filed W.P.No.33442 of 2014.

The same petitioners in W.P.No.33442 of 2014 along with one more petitioner filed W.P.No.23581 of 2017 challenging another resolution dated 04.07.2017 passed by the Panchayat. They alleged that the resolution was passed contrary to the orders passed by this Court in W.V.M.P.Nos.3505 and 3602 of 2014 in W.P.No.33442 of 2014, dated 20.01.2016. The resolution was passed for construction of Gram Panchayat building in R.S.No.155/1B in an extent of Ac.0.05 cents of land donated by one Sri Chintha Rao.

This Court, by order dated 24.07.2017, directed the respondents not to construct the Panchayat building in the private site donated by a private party and the funds shall not be lapsed in the meantime by the Collector. Seeking vacation of the said order granted in W.P.No.23581 of 2017, respondent Nos.4 and 5 therein filed W.V.M.P.No.3582 of 2017.

As per the counter affidavit filed in W.P.No.23581 of 2017, the land where the existing Gram Panchayat building is situated belongs to Gram Panchayat only and the land is classified as Government Poramboke Grama Kantam land and it is situated in Survey No.158/4. The total extent of the land in Survey No.158/4 is Acs.6.95 cents. But, the Panchayat Office building is located only in an extent of 29.07 feet from East to West and 28.07 feet from North to South consisting of two rooms. It is not fit to run Panchayat Office and it is totally in a dilapidated condition. The said place is also not suitable to construct the

new Panchayat Office building. In the year 2014 a decision was taken to construct Office building in Ac.0.04 cents of land near Oora Cheruvu tank and though it reached up to the slab level, it was stopped by virtue of the interim orders passed in W.P.No.33442 of 2014. Since the Panchayat building is very much necessary, one Sri Chintha Rao came forward to donate his land of an extent of Ac.0.05 cents in R.S.No.155/1B seeing the pathetic situation of the existing building. After the said offer, the issue was placed as item No.37 before the Gram Panchayat on 04.07.2017 and there are 11 members in the Panchayat including the Sarpanch. Out of 11 members, one member did not participate. Out of the 10 members, 5 members disagreed to accept the land and 5 members agreed. In view of the tie, the Sarpanch cast the second vote as per Rule 6 of G.O.Ms.No.227, dated 13.04.1995 and, thus, the resolution was passed by the majority and if the petitioners have any grievance against the said resolution, they should approach the Government under Section 264 of the Andhra Pradesh Panchayat Raj Act. The proposed building is not away from the Village and it is less than 350 metres from the old building. The petitioners are trying to stall the developmental activities by one way or the other. If the construction is not taken place, the donor may go back from his earlier offer.

In view of the above averments, the only point that remains for consideration is whether the construction of the

new Gram Panchayat Office building by the Gram Panchayat is valid or not.

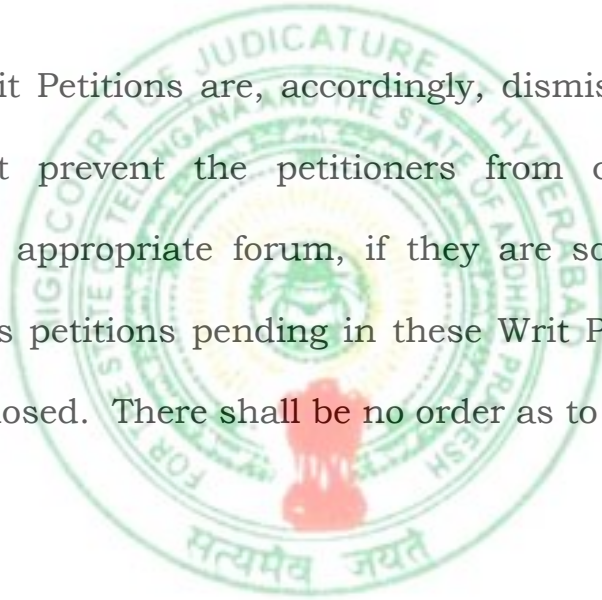
Now it is clear that the construction of the building near Oora Cheruvu tank is abandoned and in view of the offer made by one Sri Chintha Rao for donating the land of an extent of Ac.0.05 cents in R.S.No.155/1B, which is 350 metres away from the existing building, a decision was taken to construct the Office building by resolution dated 04.07.2017.

In view of the new place chosen by the Gram Panchayat, W.P.No.33442 of 2014 becomes infructuous, and since W.P.No.23581 of 2017 is concerned with resolution dated 04.07.2017, in view of the alternative remedy, it is for the petitioners to take appropriate steps. But, in view of the counter affidavit filed by respondent Nos.4 and 5 stating that the resolution was validly passed by relying on Rule 6 of G.O.Ms.No.227, dated 13.04.1995, this Court cannot undertake the examination of the validity of the resolution and stop the construction of the Gram Panchayat building. The petitioners were successful in stalling the construction of Office building meant for the benefit of the general public for the last three years. When the new place is chosen, the same is also being obstructed by the petitioners. This Court do not see any bonafides in filing the present Writ Petition after the earlier Writ Petition. Further, the Supreme Court in **J.R.Raghupathy v.**

State of A.P¹ held that the location of head quarters of a Mandal is within the discretionary purview of the Government and the Court cannot interfere with the same.

In the facts of the present case also the proposed building is at a distance of 350 metres, the donor has come forward for donating Ac.0.05 cents of land for construction of Gram Panchayat building and the Gram Panchayat wants to construct the building therein. In such circumstances, this Court cannot interfere.

The Writ Petitions are, accordingly, dismissed. However, this will not prevent the petitioners from challenging the resolution in appropriate forum, if they are so advised. The miscellaneous petitions pending in these Writ Petitions, if any, shall stand closed. There shall be no order as to costs.



(A.RAMALINGESWARA RAO, J)

15.09.2017
vs

¹ AIR 1988 SC 1681