

THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.17830 of 2011

ORDER:

Heard Sri Hari Seedhar for petitioner and the Assistant Government Pleader (Panchayat Raj) for respondents 1 and 2.

The 1st respondent through LDis.No.3610/2002 dated 09.12.2002 directed the Panchayat Secretary Edurumondi Gram Panchayat to take over the "PUNT" from the Irrigation Department as and when the Department hands over and operate the "PUNT" in between Edurumondi and Nachugunta Villages in accordance with G.O.Ms.No.87, PR & RD (Rules), dated 13-03-2000. The petitioner claims to be the Chair Person of Joint Committee constituted for operating ferry between these two villages. The petitioner challenges Communication LDis.No.2565/2007 Pts.2, dated 01-07-2008 of 1st respondent cancelling the proceedings dated 09-12-2002 and further divesting "PUNT" and ferry right from petitioner and respective Gram Panchayats as illegal, arbitrary and violative of principles of natural justice.

The petitioner places strong reliance on Section 57 of the Panchayat Raj Act (for short 'the Act') and contends that these rights vest in the Gram Panchayat as the Ferry is operated in between two villages of either side of the river banks and same arrangement is in place from 2002 till date. Therefore, basing on the report submitted by the Chief

Executive Officer-2nd respondent, cancelling LDis.No.3610/2002 dated 09-12-2002 is illegal, arbitrary and violative of the Scheme. Petitioner prays for setting aside the Communication dated 01-07-2008.

The Assistant Government Pleader relies upon the stand of the respondents as set out in the counter affidavit, contends that Section 57 of the Act has no application and according to respondents, "PUNT" is used to connect a road, which ultimately goes to village and, therefore, on proper verification of all circumstances, the proceeding impugned in the writ petition was issued.

I have perused the material available on record and taken note of the respective submissions.

Prima facie, this Court is of the view that proceeding LDis.No.2565/2007 Pts.2, dated 01-07-2008 is issued acknowledging that the Ferry right is enjoyed by petitioner and on the other hand, no opportunity whatsoever is given to petitioner or the respective Gram Panchayats to explain their view point on the circumstance relied upon by the 2nd respondent to explain that Section 57 of the Act has application and the "PUNT" vests in Gram Panchayat.

Therefore, as the basic fact is required to be considered and decided by the 1st respondent, I am satisfied the writ petition can be disposed of by treating proceeding LDis.No.2565/2007 Pts.2, dated 01-07-2008 as show-cause

notice, the petitioner is given six weeks time from the date of receipt of a copy of this order, to submit explanation and thereafter, the 1st respondent is directed to hear the petitioner, Gram Panchayat and pass final orders on the subject "PUNT". To avoid further delay or illegality, the 2nd respondent is directed to serve proceedings dated 01-07-2008 on respective Gram Panchayats as well, receive explanation, and decide the issue and pass orders in accordance with law.

The writ petition is ordered as indicated above. No order as to costs.

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

Dt: 27-03-2017
Pv



S. V. BHATT, J

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27-03-2017

Prv