

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN  
AND**

**THE HON'BLE SRI JUSTICE N. BALAYOGI**

**Writ Appeal No. 374 of 2018  
And  
Writ Petition No. 36152 of 2016**

**Common Judgment:** (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

Heard Sri G. Seshadri, learned Standing Counsel for the appellant (2<sup>nd</sup> respondent in the Writ Petition) and Smt. R. Annapurna, learned counsel for the 1<sup>st</sup> respondent-writ petitioner and, with their consent, the Writ Petition itself is finally disposed of.

The 1<sup>st</sup> respondent herein filed W.P. No. 36152 of 2016 seeking a writ of mandamus to declare the action of appellants-respondents, in interfering with their batch mix and hot mix drum plant in the name and style of Sri Lakshmi Venkateswara Constructions in Survey No. 267/1 of Bhanumukkala Village, Banaganapalle, Kurnool District inspite of the 1<sup>st</sup> respondent-writ petitioner having all the relevant documents and permissions, and to declare the memo dated 17.9.2016 of the 3<sup>rd</sup> respondent, and the letter issued by the 3<sup>rd</sup> respondent dated 8.10.2016, as null and void. A consequential direction was sought in the Writ petition to direct the respondents not to interfere with the 1<sup>st</sup> respondent-writ petitioner's batch mix and hot mix drum plant. WPMP No. 44557 of 2016 was filed to suspend the notice dated 6.10.2016 issued by the Executive Officer of the Gram Panchayat, pending disposal of the Writ Petition.

Facts, to the extent necessary, are that, pursuant to the resolution of the Gram Panchayat dated 19.5.2016, a no Objection Certificate was issued by the Executive Officer of the Gram Panchayat on 27.5.2016 to the 1<sup>st</sup> respondent-writ petitioner to run the plant. This resolution of the Gram Panchayat dated 19.5.2016 was sought to be cancelled by proceedings dated 13.6.2016 the validity of which was impugned in W.P.

No. 20142 of 2016. The said Writ Petition was disposed of, by order dated 23.6.2016, setting aside the order dated 13.6.2016 cancelling the NOC dated 27.5.2016, directing the Executive Officer of the Gram Panchayat to treat the proceedings dated 13.6.2016 as a show cause notice, receive explanation from the 1<sup>st</sup> respondent-writ petitioner, consider the explanation and pass appropriate orders in accordance with law within six weeks from the date of receipt of the representation. The 1<sup>st</sup> respondent-writ petitioner was given liberty to represent within two weeks from the date of receipt of the order. The parties were directed to maintain status-quo, as regards the structure and possession of the batch mix and hot mix drum plant, for a period of eight weeks. Thereafter, proceedings dated 6.10.2016 was issued by the Gram Panchayat calling upon the 1<sup>st</sup> respondent-writ petitioner not to proceed with the construction of the batch mix and hot mix drum plant, as the Gram Panchayat had not accorded permission. These proceedings was followed by letter dated 8.10.2016 addressed by the Divisional Panchayat Officer requesting the Station House Officer, Banganapalle, to depute police officials to ensure that the 1<sup>st</sup> respondent-writ petitioner did not proceed with the construction work, as it was not possible for officials to keep watch of the daily construction.

Initially the learned Single Judge, while listing the matter after ten days, directed by his order dated 26.10.2016 that, till further orders, there should be stay of demolition of the structures existing on date, and the 1<sup>st</sup> respondent-writ petitioner should file an undertaking in Court, within three days, that no further construction would be undertaken. In compliance with the said order, the 1<sup>st</sup> respondent-writ petitioner appears to have furnished such an undertaking. Thereafter, when the Writ Petition was listed before the learned Single Judge, the order under appeal dated 7.2.2018 came to be passed restricting the interim order passed on 26.10.2016 merely to suspension of the proceedings of the Gram

Panchayat dated 6.10.2016 which, in effect, enabled the 1<sup>st</sup> respondent-writ petitioner to undertake further construction. Aggrieved thereby, the Gram Panchayat is in appeal before us.

While Smt. R. Annapurna, learned counsel for the 1<sup>st</sup> respondent-writ petitioner, would contend that a reply was submitted to the show cause notice on 15.7.2016, this contention is refuted by Sri G. Seshadri, learned Standing Counsel for the Gram Panchayat, who states that no such reply was filed, the Gram Panchayat was prevented thereby from passing an order in accordance with the directions of the learned Single Judge and, in the meanwhile, the order under appeal came to be passed, under the protection of which the 1<sup>st</sup> respondent-writ petitioner is proceeding with construction.

It has not been disputed before us that permission of the Gram Panchayat is necessary for a batch mix and hot mix drum plant to be constructed and established. While reliance is placed by Smt. R. Annapurana, learned counsel for the 1<sup>st</sup> respondent-writ petitioner, on the earlier resolution of the Gram Panchayat, the fact remains that the said resolution was, subsequently, cancelled; and this order of cancellation was the subject matter of WP No. 20142 of 2016. As Smt. R. Annapurna, learned counsel for the 1<sup>st</sup> respondent-writ petitioner, submits that the batch mix and hot mix drum plant is required to be constructed at the earliest, since the 1<sup>st</sup> respondent-writ petitioner is executing road works in the vicinity, we consider it appropriate to pass the following order in the Writ Petition.

As a copy of the letter of the 1<sup>st</sup> respondent-writ petitioner dated 15.7.2016, submitting their reply to the show cause notice, is filed along with the material papers set placed before us, a copy of which has also been made available to Sri G. Seshadri, learned Standing Counsel for the Gram Panchayat, who acknowledges its receipt, ends of justice would be met if, in terms of the order passed in W.P. No. 20142 of 2016 dated

23.6.2016, the appellant-Gram Panchayat considers the reply submitted by the 1<sup>st</sup> respondent-writ petitioner vide their letter dated 15.7.2016, passes orders thereupon, and communicates the same to the 1<sup>st</sup> respondent-writ petitioner by Registered Post with acknowledgment due, to the address referred to in the cause title of W.P. No. 36152 of 2016, with utmost expedition and, in any event, within three weeks from today. Until and unless permission is granted by the Gram Panchayat, the 1<sup>st</sup> respondent-writ petitioner shall not proceed with further construction of the bath mix cum hot mix plant; and status-quo, in all respects, shall be maintained until then.

Needless to state that, if permission is accorded by the Gram Panchayat, it is open to the 1<sup>st</sup> respondent-writ petitioner to then proceed with further construction of the batch mix and hot mix drum plant. If, on the other hand, permission is refused, it is open to the 1<sup>st</sup> respondent-writ petitioner to avail their judicial remedies.

Both the Writ Petition and the Writ Appeal are disposed of accordingly. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

**(RAMESH RANGANATHAN, ACJ)**

**(N. BALAYOGI, J)**

8<sup>th</sup> March, 2018

**Note:**

**Furnish c.c. by 12.3.2018.**

**b/o**

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