

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE MS. JUSTICE J. UMA DEVI**

W.A.NO. 884 OF 2018

JUDGMENT:

(Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan)

This appeal is preferred, under Clause 15 of the Letters Patent, against the interlocutory order passed by the Learned Single Judge in I.A.No. 1 of 2018 in W.P.No. 21334 of 2018 dated 26.6.2018, whereby the Learned Single Judge directed that, since it is not disputed that there was no permission granted for the construction made in the subject land by the 6th respondent, the structure already erected shall not be put to use particularly since the petitioners allege that construction has been made in their land. Aggrieved thereby, the 7th respondent is in appeal before this Court.

Learned Government Pleader for Higher Education would place before us a copy of the proceedings of the District Educational Officer, Ongole, Prakasam district dated 20.4.2018 recording that sanction was accorded by the Sarva Siksha Abhiyan for construction of all infrastructural facilities to the school under the scheme of "Hybrid Annuity Mode Plan" during the year 2017-18; the Chairman of Sri Sathya Sai Seva Trust, Sri Sathya Sai Mandiram, Kotla Bazar, Chirala had expressed his willingness to construct the new proposed High School building located in Kothapeta Gram Panchayat, with their own funds, for the welfare of poor children and families, as there was no High School in this panchayat area, nearly 2000 families were living in this area; and the proposal to admit 1000 students, during the present academic year, was accepted subject to the condition that they shall follow the guidelines of the department/Government with regards release of funds and other norms; and since there is a dire need to run the school, and funds were

not released by the Government, conditional permission was accorded to Sri Sathya Sai Seva Trust, Chirala for construction of a new High School building, subject to the conditions stipulated in the said proceedings.

Learned Government Pleader for Education would submit that construction of the school building has been completed; students have already been admitted; and the new session, for the academic year 2018-19, has commenced from the 1st of June, 2018 itself. He has placed before us certain photographs dated 12.6.2018, which show a large number of students having gathered at one place within the School premises, to submit that the School is functioning even since then. When we asked the learned Government Pleader, whether the subject school is being managed by Sri Satya Sai Seva Trust, he answered in the negative; and emphasized that the school is under the control and management of the State Government; and it would continue to be administered by the State Government and its officials.

Sri G. Seshadri, learned Standing Counsel for the Gram Panchayat, would submit that no permission is required for construction of the school building as it is exempted under Rule 15 (1) (c) of the A.P. Gram Panchayat Land Development (Layout and Building) Rules, 2002 (for short “the Rules”).

Rule 15 of the Rules relates to exempted buildings, and sub-rule (1) of Rule 15 prescribes that the following operational construction of the Government, whether temporary or permanent, which is necessary for the operation, maintenance, development or execution of any of the following services, are exempt from the purview of these rules. Rule 15 (1) (c) refers to the works undertaken by the District Administration/Zilla Praja Parishad/Mandal Praja Parishad/Gram Panchayat. While works undertaken by local bodies, such as Zilla Praja Parishad/Mandal Praja Parishad/Gram Panchayat are exempt from the purview of the Rules, it is

debatable whether construction of the school building by Sri Sathya Sai Seva Trust, Chirala, for the benefit of the Government/Zilla Parishad, would fall within the ambit of Rule 15 (1) (c) of the Rules.

The fact, however, remains that the school is functioning ever since 1st June, 2018, and around 1175 students, from poor and needy families, are prosecuting their studies thereat. It would be wholly inappropriate for this Court, in the exercise of its discretionary jurisdiction under Article 226 of the Constitution of India, to prevent them from prosecuting their studies in the said school till the inter-se title disputes between the respondents-writ petitioners on the one hand, and the appellants and other official respondents on the other, are finally resolved. Larger public interest would require the school to function, and the poor and needy students, studying in the said School, to prosecute their studies.

Even if the contention, of Sri K. S. Murthy, learned counsel for the respondents-writ petitioners, that construction of the Government school building is unauthorized and does not fall within the ambit of Rule 15 (1) (c) of the Rules is found, when the Writ petition is finally heard, to have some merit, the Government School building can always be directed to be demolished at the end of the academic year. Likewise the State Government can always be asked, in case the subject land is later held to belong to the respondents-writ petitioners, to acquire the said land. That would not, however, justify poor and needy students being interdicted from prosecuting their studies in the said school on the premise that construction of the building is unauthorized or the land belongs not to the Government but to the respondents-writ petitioners.

Sri K. S. Murthy, learned counsel for the respondents-writ petitioners, would seek a direction to the appellant, and other respondents, not to make any further construction without prior approval of the competent authority under the A.P. Panchayat Raj Act, 1994. On

the other hand both the learned Government Pleader and Sri G.Seshadri, Learned Counsel for Gram Panchyat would submit that the Zilla Praja Parishad has already sanctioned funds for construction of a compound wall for the school; the work, of construction of the compound wall, is being undertaken by the Zilla Praja Parishad itself; consequently it would fall within the ambit of Rule 15 (1) (c) of the Rules; and such construction is exempt from the rigor of the Rules. Suffice it, therefore, to make it clear that construction of a compound wall around the subject school shall only be undertaken either in terms of Rule 15 (1) (c) of the Rules, or after obtaining prior permission from the Gram Panchayat. The order now passed by us shall be the interim order in the Writ Petition, and it is open to any of the parties to these proceedings to seek vacation or modification thereof after pleadings are complete.

The Writ Appeal is disposed of accordingly. Miscellaneous applications, if any pending, shall stand closed. No costs.

(RAMESH RANGANATHAN, ACJ)

(J. UMA DEVI, J)

4th July, 2018

Kr/gsn

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Dt. 4.7.2018

Kr/gsn