

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

W.P.Nos.16709/ 2015, 25393/ 2015 and 26795/ 2015
and
W.P.13917 of 2016

COMMON ORDER:

Since these writ petitions are interrelated, this Court deems it appropriate to dispose of these writ petitions by way of this common order.

2. Heard Sri K.Mahapathi Rao, learned counsel for the petitioner in W.P.No.16709 of 2015 and Sri R.K.Suri, learned counsel for the petitioner in W.P.Nos.25393 and 26795 of 2015 and 13917 of 2016, learned Government Pleader for the State of Telangana and Sri G.Narender Reddy, learned Standing Counsel for the respondent Grampanchayat apart from perusing the material available before this Court.

3. On 12.06.2013, the Panchayat Secretary of the respondent Grampanchayat granted permission for building construction in favour of the petitioner in W.P.Nos.25393 and 26795 of 2015 and 13917 of 2016. On an appeal filed by the petitioner in W.P.No.16709 of 2015, the District Panchayat Officer, Mahaboobnagar District, passed an order vide proceedings No.A7/956/2013-A1, dated 14.11.2014, setting aside the building permission granted by the Panchayat Secretary. The said order passed by the District Panchayat Officer is under challenge in W.P.No.25393 of 2015. Pending W.P.No.25393 of 2015, petitioner in the said writ petition approached the District Panchayat Officer by way of representation dated 08.02.2016 and the District Panchayat Officer issued a Memo dated 11.02.2016, directing the Panchayat Secretary to take action on the representation of the petitioner in W.P.No.25393 of 2015. Seeking implementation of the said memo dated 11.02.2016, petitioner in W.P.No.25393 of 2015 filed W.P.No.13917 of 2016. The Panchayat Secretary of the respondent Grampanchayat vide notice dated

14.08.2015, rejected the request of the petitioner in W.P.No.25393 of 2015. The said order of rejection is under challenge in W.P.No.26795 of 2015.

4. Sri R.K.Suri, learned counsel for the petitioners in W.P.Nos.25393 of 2015 and 26795 of 2015 and 13917 of 2016 contends that the District Panchayat Officer, having categorically found that the first appeal against the building permission lies to the Grampanchayat under Section 128 of the Panchayat Raj Act, grossly erred in setting aside the building permission accorded in favour of the petitioner. According to Section 128 of the Panchayat Raj Act, any order of the Executive Authority, granting, refusing, suspending or revoking a license or permission is appealable before the Grampanchayat.

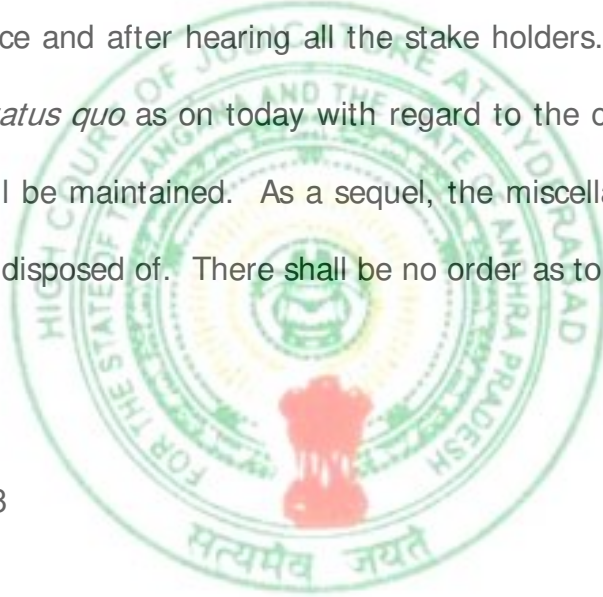
5. In the instant case, the District Panchayat Officer, instead of relegating the appellant in the appeal to an appropriate authority under Section 128 of the Panchayat Raj Act, granted relief in the appeal having categorically found that the appeal lies to the Grampanchayat. This, in the considered opinion of this Court, cannot be sustained and is totally one without jurisdiction. It is also required to be noted that vide notice dated 14.02.2015 the Panchayat Secretary rejected the building application of the petitioner in W.P.Nos.25393 of 2015 and 26795 of 2015 and 13917 of 2016. Therefore, in the eye of Law, as on date there is no permission in existence in favour of the petitioner in the above said writ petitions.

6. In W.P.No.16709 of 2015, the unofficial respondent in other three cases is asking for a direction to the official respondents therein to stop the construction.

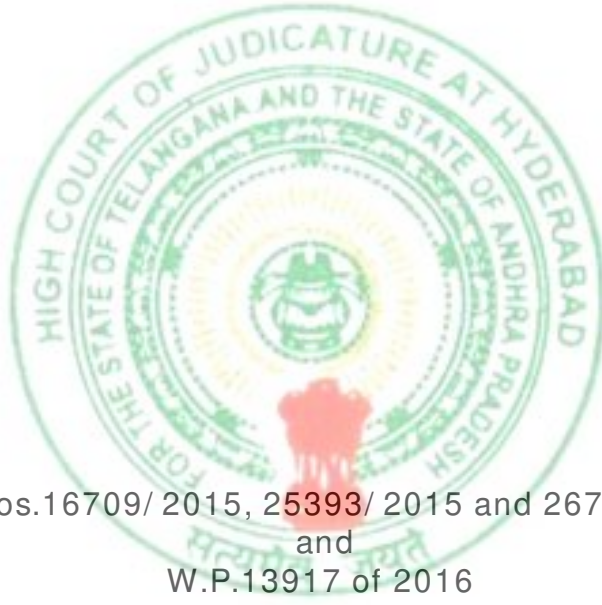
7. In view of the above reasons, W.P.No.25393 of 2015 is allowed, setting aside the orders of the District Panchayat Officer passed vide proceedings No.A7/956/2013-A1, dated 14.11.2014 and W.P.Nos.16709/2015, 26795/2015 and 13917 of 2016 are disposed of, leaving it open for the petitioner in W.P.No.26795 of 2015 and W.P.No.13917 of 2016 to file appeal before the Grampanchayat under Section 128 of the Gram Panchayat Act, 1994, against the order of Panchayat Secretary dated 14.08.2015 within a period of two weeks from the date of receipt of a copy of this order for consideration of the same by the respondent Grampanchayat and for passing appropriate orders within a period of six weeks thereafter, after giving notice and after hearing all the stake holders. Till such exercise is completed, *status quo* as on today with regard to the constructions in the subject site shall be maintained. As a sequel, the miscellaneous petitions, if any, shall stand disposed of. There shall be no order as to costs.

Date:03.04.2018
grk

A.V.SESHA SAI, J



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



W.P.Nos.16709/ 2015, 25393/ 2015 and 26795/ 2015
and
W.P.13917 of 2016

Dated 03.04.2018

grk