

THE HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.9697 OF 2019

ORDER:

It is a case where petitioner challenges the notice dated 18.04.2019 alleging that the petitioner is making construction without obtaining permission as required in terms of the provisions of the Panchayat Raj Act, 1994 (for short 'the Act').

Learned counsel for the petitioner submits that though petitioner made an application on 09.01.2018 within the prescribed time, the respondents failed to respond to the same, either by accepting or rejecting. Therefore, the petitioner invoking the provisions of Section 127 of the Act, started making construction. He further submits that as per Section 127 of the Act, if the permission is not granted within 15 days from the date of making an application, the permission as sought would be deemed to be granted. As the petitioner started construction invoking the provisions of Section 127 of the Act, the same cannot be interfered by the respondent authorities and the same cannot be terms as illegal.

On the other hand, learned Standing counsel appearing for the Gram Panchayat would submit that under the Rule 26 notified under the Act, the petitioner before making construction is mandated to give notice to the Gram Panchayat before availing the deemed sanction provision

under Section 127 of the Act. As the petitioner failed to give such notice, petitioner cannot avail the deemed sanction provision under Section 127 of the Act.

However, learned Standing counsel would submit that if the petitioner approaches the respondent authorities by making an appropriate application by paying prescribed fees in terms of the Panchyat Raj Act, 2018, the application of the petitioner would be processed within the reasonable time.

Having regard to the respective submissions, as admittedly, petitioner did not comply with the Rule 26 of the Rules notified under the Act, by intimating the Gram Panchayat before commencing the construction, the petitioner cannot avail the remedy of deemed sanction provision under Section 127 of the Act. However, as the petitioner has already commenced construction, he shall not proceed with the construction till the permission is granted. Petitioner shall make an application forthwith to the concerned authority which shall be considered within two weeks from the date of making such application. It is made clear that the respondent authorities shall not take any coercive steps with regard to construction already made, as long as petitioner maintains status quo till his application for construction permission is disposed of.

Subject to the above, the Writ Petition is disposed of. No order as to costs.

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

CHALLA KODANDA RAM, J

Date: 30.04.2019.

Note:

CC in 3 days.

(B/o) dv



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Dated : 30.04.2019

dv