
(1998) 10 AP CK 0036

In the Andhra Pradesh High Court

Case No : Writ Petition No. 28107 of 1998

Annapurna Industries Rice Mill

APPELLANT

Vs

Superintending Engineer, APSEB, Hyd. and Others

RESPONDENT

Date of Decision : 08-10-1998

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1998) 6 ALD 182 : (1998) 6 ALT 588

Hon'ble Judges : S.R. Nayak, J

Bench : Single Bench

Advocate : Mr. V. Madhusudhana Rao, for the Appellant; Mr. J. Siddaiah, SC for APSEB, for the Respondent

Judgement

1. Rule nisi. The learned standing Counsel for the APSEB Sri J. Siddaiah took notice for the respondent. The writ petition itself was heard finally and disposed of with the consent of the learned Counsel for the parties.

2. Against the impugned order, a statutory appeal lies to the Chief Engineer. I do not find any extraordinary circumstance or situation which could justify the petitioner to circumvent the statutory remedy and rush to this Court under Article 226 of the Constitution of India. Furthermore, having perused the affidavit averments, I find that in order to grant the relief to the petitioner, investigation of disputed facts becomes necessary. Normally, High Court does not take up investigation of disputed facts in a petition filed under Article 226 of the Constitution of India unless it is satisfied that there is no alternative adjudicatory forum or quasi-judicial Tribunal to take up such investigation. The argument of the learned Counsel for the petitioner is that if the petitioner were to avail of the appeal remedy before the Chief Engineer, he has to pay the entire sum of money assessed by the Superintending Engineer under the impugned order, and therefore, the appeal remedy is onerous. The argument is unsound. If a statute prescribes performance of a duty by a person, if he wishes to avail of appeal remedy, as a condition-precedent, he cannot be permitted to avoid that liability

by entertaining his petition under Article 226 of the Constitution. Statutory policy is a public policy and the Court cannot aid or abet any attempt on anybody's part to breach that policy. In that view of the matter and also for the reasons stated by me in the case of P.V. Surender Babu Vs. Prohibition and Excise Superintendent, Chittoor, and having regard to the stern disapproval expressed by the Supreme Court in para 3 of the judgment in the case of Assistant Collector of Central Excise, Chandan Nagar, West Bengal Vs. Dunlop India Ltd. and Others, , do not think that it is appropriate to entertain the writ petition.

3. In the result, I dismiss the writ petition reserving liberty to the petitioner to avail of the appeal remedy before the Chief Engineer. No costs.