
(1995) 03 AP CK 0006

In the Andhra Pradesh High Court

Case No : Writ Petition No. 1558 of 1995

Danevath Jayaram and Others

APPELLANT

Vs

The District Collector (Panchayat) and Others

RESPONDENT

Date of Decision : 20-03-1995

Acts Referred:

Andhra Pradesh Gram Panchayats (Declaration of Village) Rules, 1994 — Rule 3, 9
Andhra Pradesh Panchayat Raj Act, 1994 — Section 3(2)
Constitution of India, 1950 — Article 14

Citation : (1995) 1 ALT 795

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

Bench : Single Bench

Advocate : A. Pulla Reddy, for the Appellant; Govt. Pleader for Respondents 1 and 2, for the Respondent

Final Decision : Allowed

Judgement

S.R. Nayak, J.—39 residents of Thimmapur village of Damarcharla Mandal, Nalgonda District have filed this common and joint writ petition questioning the proceedings of the first respondent dated 30-9-1994, forming a separate Gram Panchayat at Narsapur comprising of Narsapur and Thimmapur villages.

2. The petition averments disclose that Thimmapur village is more than 8 kms away from Kalleppally village. Kalleppally was the head-quarter of the Gram Panchayat comprising Kalleppally village as well as Thimmapur and Narsapur villages. Since the residents of Thimmapur village as well as Narsapur village experienced certain difficulties, they made representations to the second respondent - Extension Officer (Panchayat) requesting the latter to recommend to the first respondent to bifurcate Thimmapur and Narsapur villages from the jurisdiction of Kalleppally Gram Panchayat and to form two separate Gram Panchayats in respect of Thimmapur village and Narsapur village. It is also averred that the local Member of Legislative Assembly also recommended to the second respondent fully endorsing the grievance made out by the villagers of

Thimmapur and Narsapur and requesting the second respondent to take necessary steps to bifurcate the said two villages from the territorial jurisdiction of Kallepally Gram Panchayat. These background facts led the second respondent to address two separate letters on 1-9-1992 to the first respondent-District Collector recommending to the latter that the said two villages be deleted from the territorial jurisdiction of Kallepally Gram Panchayat and two separate Gram Panchayats be formed for the convenience of the residents of the said two villages. It is alleged that the first respondent-District Collector did not take any action on the recommendation made by the second respondent till 1994.

3. Obviously acting under the provisions of Section 3(2) of the Andhra Pradesh Panchayat Raj Act, 1994, for short "the Act", the District Collector issued a show-cause notice dated 30-9-1994 to the Person-in-charge of Kallepally Gram Panchayat. In the notice it was proposed to delete Thimmapur and Narsapur villages from the territorial jurisdiction of Kallepally Gram Panchayat and to form a separate Gram Panchayat for those two villages. It is alleged and it is not disputed that the Person-in-charge of Kallepally Gram Panchayat did not submit any reply to the show-cause notice. Since there was no objection of any sort from the Kallepally Gram Panchayat to the proposal made in the show-cause notice, the District Collector issued the impugned notification, referred to above, on 30-9-1994.

4. The learned Counsel appearing for the petitioners firstly contended that the impugned action suffers from an error apparent on the face of the record, inasmuch as the district Collector proceeded on the assumption that the request from the villagers was to form only one Gram Panchayat in respect of Thimmapur and Narsapur villages. The learned Counsel would maintain that it is a clear case of non-application of mind. Referring to the two separate letters sent by the second respondent on 1-9-1992 to the District Collector, the learned Counsel would point out that the residents of both the villages made the grievance and they wanted the authorities to form two separate Gram Panchayats in respect of their villages. He would also point out that even the local Member of Legislative Assembly made requests to the authorities to form two separate Gram Panchayats for those two villages. The learned Counsel secondly contended that the action is otherwise bad in law, inasmuch as the impugned notification is issued in utter violation of Rules 3 and 9 of the Andhra Pradesh gram panchayats (Declaration of Villages) Rule, 1994 for short the Rules. Referring to the provisions of Rule 3 of the Rules, the learned Counsel submitted that the population of Thimmapur village is more than 1,400 and income is also more than Rs. 4,000-00 even according to the second respondent. He would also maintain that even the Kallepally as per the provisions of Rule 3 of the Rules, the authorities are required to declare separate Gram Panchayats in respect of Thimmapur as well as Narsapur villages. Thirdly the learned Counsel submitted that when the show-cause notice was issued on 30-9-1994 the Person-in-charge was in charge of administration of the Kallepally Gram Panchayat. Therefore as per the provisions of Rule 9 of the Rules he was obliged to submit his reply to the show-

cause notice after ascertaining the views expressed by the members of the Grama Sabha at a special meeting to be convened in that regard and in the present case admittedly the Person-in-charge did not submit any reply nor did he convene the meeting of Grama Sabha. For all these reasons, the learned Counsel would request the Court to interfere in the matter and quash the impugned proceedings.

5. On the other hand, the learned High Court Government Pleader appearing for the respondents 1 and 2 authorities would submit that the petitioners have no locus standi to maintain the writ petition and only Kallepally Gram Panchayat could question the validity of the impugned notification. Secondly the learned Government Pleader would submit that the writ petition is otherwise liable to be dismissed in limini, in as much as the petitioners have not exhausted the alternative statutory remedies available to them under Rule 10 of the Rules. However the learned High Court Government Pleader was not in a position to support the impugned action as regards merits are concerned.

6. After hearing the learned Counsel for the parties, I find that the writ petition is entitled to be allowed for more than one reason. There is a clear non-application of the mind on the part of the first respondent-District Collector to assume that the proposal was only in respect of forming only one Gram Panchayat comprising Thimmapur and Narsapur villages. This assumption of the District Collector is totally contrary to the facts on record. The genesis of the proposal that is the representations of the villagers of these two villages made it very clear that they wanted the authorities to form two separate Gram Panchayats in respect of their respective villages. On this short ground the action should be condemned as arbitrary and violative of Article 14 of the Constitution. Added to this, the action is also otherwise bad in law for completely ignoring the provisions of statutory Rules 3 and 9 of the Rules. There is no dispute between the parties that when the show cause notice was issued by the District Collector on 30-9-1994, the Person-in charge was in-charge of the administration of Kallepally Gram Panchayat. Rule 9 of the Rules obliges him to submit his reply after ascertaining the views of the members of the Grama Sabha. That exercise was not at all carried out by the Person-in-charge of the Gram Panchayat. The argument of the learned High Court Government Pleader that only the Special Officer who is in-charge of the Gram Panchayat is obliged to carry out that exercise and not the Person-in-charge is required to be noted only to be rejected. A Gram Panchayat is a local body. In the absence of the Committee of Management consisting of elected members under certain circumstances, these local bodies are managed by the officials nominated or appointed by the governmental authorities by virtue of the power retained under the Act. When the show-cause notice was issued, there is no dispute that the administration of the Gram Panchayat was being looked after by the Person-in-charge and therefore he was obliged to submit his reply after obtaining the necessary views from the members of the Grama Sabha.

7. In the result and for the foregoing reasons, I allow this writ petition and a writ

of Mandamus shall issue to the first respondent-District Collector to immediately take necessary steps on the basis of the representations of the petitioners and the other villagers of Thimmapur village to form a separate Gram Panchayat for Thimmapur village in accordance with the provisions of the Act and the Rules. This exercise should be completed by the first respondent-District Collector within a period of two months from today. In the facts and circumstances of the case, the parties are directed to bear their own costs.

8. The Registry is directed to send a copy of this order forthwith to the District Collector-1st respondent herein.