
(2004) 02 AP CK 0087
In the Andhra Pradesh High Court
Case No : WA No. 2353 of 2003

Eguvakammakandriga Gram Panchayat	APPELLANT
Vs	
District Collector and Others	RESPONDENT

Date of Decision : 10-02-2004

Acts Referred:

Andhra Pradesh Panchayat Raj Act, 1994 — Section 246(1), 246(2), 246(3)

Citation : (2004) 2 ALD 299 : (2004) 2 ALT 317

Hon'ble Judges : K.C. Bhanu, J;B. Sudershan Reddy, J

Bench : Division Bench

Advocate : K.S. Gopala Krishnan, for the Appellant; D. Seshadri Naidu, for the Respondent

Judgement

Sudershan Reddy, J.—The unsuccessful writ petitioner is the appellant in this writ appeal preferred against the order of the learned Single Judge in W.P. No. 2688 of 2003, dated 7-8-2003. The learned Single Judge did not grant any relief whatsoever to the writ petitioner,

2. The writ appellant is Eguvakamma Kandriga (for short "E-Kandriga") Gram Panchayat, S.R. Puram Mandal, Chittoor District, represented by its Sarpanch. The Gram Panchayat had passed resolution proposing to construct its office building at Diguvakamma Kandriga (for short D-Kandriga"). On the representation made by some villagers, the 1st respondent-District Collector, Chittoor, passed orders dated 12-12-2002 directing the Sarpanch of the Gram Panchayat to take up "construction work for the office building of Eguvakamma Kandriga Gram Panchayat in the centrally located Eguvakamma Kandriga".

3. The case set up by the appellant is that D-Kandriga is a centrally located place in the Gram Panchayat and better suited for construction of Panchayat office. The 3rd respondent asserts that E.Kandriga is a centrally located place and accessible to the people of all hamlets and therefore, the office building is required to be located at E.Kandriga. The 3rd respondent contended that the decision of the District Collector, does not suffer from any legal infirmity requiring interference of

this Court in exercise of its jurisdiction under Article 226 of the Constitution of India.

4. The learned Single Judge, having referred to the Rules notified under G.O. Ms. No. 227, dated 13-4-1995, came to the conclusion that the power of the Gram Panchayat, or for that matter, the Gram Sabha is not absolute. The resolutions, if any, passed by the Gram Panchayat and Gram Sabha are required to be in conformity with the Rules framed by the Rule making authority. The learned Single Judge found that the selection of place for construction of the building by the Gram Panchayat and Gram Sabha was not, as provided for under the Rules. Be it as it may, the learned Single Judge also came to the conclusion that it is not for this Court to interfere with such discretionary orders as the one passed by the District Collector directing the location of the office building at a specified place.

5. In this writ appeal, the learned Counsel for the appellant contended that the District Collector has no power to interfere with the resolution passed by the Gram Panchayat in any manner whatsoever and the power, if any, to cancel or suspend a resolution of a Gram Panchayat vests in the Government u/s 246 of Andhra Pradesh Panchayat Raj Act, 1994 (for short "the Act"). The impugned order passed by the District Collector, in a way, interferes with the resolution of the Gram Panchayat.

6. The learned Government Pleader for Panchayat Raj and Rural Development during the course of hearing of this writ appeal, submitted that in order to set the controversy at rest, leave may be granted to the Government to examine as to whether it is a fit case for its interference in exercise of its power u/s 246 of the Act. There cannot be any doubt whatsoever that the Government may either as suo motu or on a reference made to it by the Executive Authority, is entitled to cancel any resolution passed by Gram Panchayat, if in the opinion of the Government, such a resolution

(a) is not legally passed; or

(b) is in excess or abuse of the powers conferred by or under this Act, or any other law; or

(c) on its execution is likely to cause danger to human life, health or safety or is likely to lead to riot or affray.

7. Sub-section (3) of Section 246 of the Act provides and enables the District Collector to make a report to the Government that in his opinion immediate action is necessary to suspend a resolution on any of the grounds referred to in Clause (c) of sub-section (1) of Section 246 of the Act and the Government may, by order in writing, suspend the resolution. Thus the power of the Government to cancel the resolution or suspend the same, in case of urgency, is not in dispute.

8. But, in the instant case on hand, the Government did not exercise any such power, but the District Collector interfered with the resolution passed by the Gram Panchayat. In our considered opinion, the Collector could not have

interfered with the resolution of the Gram Panchayat. It was always open to him to make a report to the Government if the conditions were satisfied for making such a report requiring the Government's interference in the matter in exercise of its power u/s 246 of the Act.

9. We have noted the nature of controversy between the parties. It is also brought to our notice by the learned Government Pleader that the construction of the office building at both the places i.e. D.Kandriga as well as E.Kandriga, have been completed. The fact remains that the appellant-Gram Panchayat so far did not put the office building constructed by it for use. In the circumstances, it would be appropriate, to direct the parties to maintain status-quo existing as on today and grant leave to the District Collector to make an appropriate report to the Government and the Government may in its discretion examine the matter and consider the validity of the resolution passed by the Gram Panchayat proposing to construct the office building at the said places. It shall be open to the 3rd respondent also to make an appropriate representation to the Government placing the relevant" facts for the consideration of the Government in order to enable the Government to exercise its suo motu power u/s 246 of the Act. It is needless to observe that the Government shall examine the entire issue and take an appropriate decision in the matter in accordance with law. It is further directed that the Government before taking any decision in the matter, shall provide an opportunity of hearing to the appellant as well as the 3rd respondent. That an appropriate decision in this regard shall be taken, within a period of eight weeks from the date of receipt of a copy of this order.

10. The writ appeal is accordingly disposed of. No order as to costs.