
(2010) 10 AP CK 0018
In the Andhra Pradesh High Court
Case No : Writ Petition No. 18302 of 2010

Gram Panchayath

APPELLANT

Vs

State of Andhra Pradesh and Others

RESPONDENT

Date of Decision : 19-10-2010

Acts Referred:

ANDHRA PRADESH PANCHAYAT RAJ ACT, 1994 — Section 53

Citation : (2011) 1 ALD 52

Hon'ble Judges : C.V. Nagarjuna Reddy, J

Bench : Single Bench

Advocate : N. Siva Reddy, for the Appellant; AGP for Panchayat Raj for Respondent No. 1 and AGP for Revenue for Respondent No. 2, Venkateswara Rao, for M. Prabhakara Rao, SC. for Gram Panchayat for Respondent No. 3, K. Gani Reddy, for Respondents 5 and 6, for the Respondent

Judgement

C.V. Nagarjuna Reddy, J.—This Writ Petition is filed for a Mandamus to declare the inaction of the official Respondents in taking steps to remove the alleged illegal constructions made by Respondent Nos. 5 and 6 over site in Sy. No. 171 abutting the panchayat road of Petitioner-Gram Panchayat as illegal and arbitrary.

2. The Petitioner is a Gram Panchayat represented by its Sarpanch. It is alleged that Respondent Nos. 5 and 6 have encroached the vacant site abutting the panchayat road in Sy. No. 171 by raising permanent constructions thereon. The Petitioner is stated to have issued a notice under the provisions of the Andhra Pradesh Panchayat Raj Act, 1994 (for short "the Act") directing Respondent Nos. 5 and 6 to stop illegal construction and remove the constructions already made. As Respondent Nos. 5 and 6 are stated to have failed to comply with the said direction, the Petitioner lodged a report before Respondent No. 4 to provide police aid for stopping illegal construction by Respondent Nos. 5 and 6. Simultaneously, the Secretary of the Petitioner-Gram Panchayat lodged a complaint before Respondent No. 2 on 08.04.2010. The grievance of the Petitioner is that despite the efforts made by it to prevent Respondent Nos. 5 and

6 from proceeding with illegal construction, the latter have been proceeding with the construction and Respondent Nos. 2 and 4 have not taken any action in this regard.

3. No counter affidavits have been filed on behalf of the Respondents.

4. u/s 53 of the Act, all public roads in any village, other than National Highways, State Highways and roads vesting in Zilla Parishad or Mandal Parishad shall vest in the gram panchayat. Under the proviso to Section 53(1), the gram panchayat shall take steps to remove encroachments on and prevent unauthorized use of any road other than a National Highway passing through the gram panchayat. u/s 139, every police officer, in whose jurisdiction the village is situated, shall be bound to assist the gram panchayat and its officers and servants in the exercise of their lawful authority.

5. On the Petitioner's own showing, a notice was given to Respondent Nos. 5 and 6 to stop construction over the property abutting the panchayat road, which is stated to be vested in the gram panchayat. Therefore, having issued such notice, the Petitioner is entitled to take further action in pursuance of such notice under the provisions of the Act. Once the property is vested in the Petitioner, the revenue authorities do not have any role to play. Respondent No. 4 is obligated to come to the aid of the Petitioner if their assistance is required for discharging its statutory functions for the purpose of removal of encroachments.

6. Subject to the above observations, the Writ Petition is disposed of.

7. As a sequel to disposal of the main petition, W.P.M.P. No. 23101 of 2010 filed by the Petitioner for interim relief is disposed of as infructuous.