
(2012) 02 AP CK 0023

In the Andhra Pradesh High Court

Case No : Writ Petition No. 33490 of 2011 and W.P. No. 249 of 2012

Gutha Narayana Rao

APPELLANT

Vs

The District Collector, Guntur and others.

RESPONDENT

Date of Decision : 13-02-2012

Acts Referred:

Andhra Pradesh Panchayat Raj Act, 1994 — Section 101, 53, 96, 98

Citation : (2012) 3 ALD 793 : (2012) 3 ALT 166

Hon'ble Judges : G. Bhavani Prasad, J

Bench : Single Bench

Advocate : Ancha Panduranga Rao in W.P. No.33490 of 2011 and Sri Posani Venkateswarlu in W.P. No.249 of 2012, for the Appellant; G.P. for Revenue Counsel for 1 to 4 Respondent Sri G. Elisha Counsel for Respondent No. 5 Sri Kasa Jagan Mohan Reddy Counsel for 6 and 7 Respondents G.P. for Revenue Counsel for Respondent No.1, G.P. for Panchayat Raj and Rural Development Counsel for Respondent No. 2, G.P. for R and B Department Counsel for Respondent No. 3, G.P. for Home Counsel for Respondent No. 4, Sri G. Elisha Counsel for Respondent No. 5, Sri K. Suresh Reddy Counsel, for the Respondent

Judgement

G. Bhavani Prasad

1. Writ Petition No. 33490 of 2011 is for a direction to the Collector and Revenue Divisional Officer, Guntur and Tahsildar, Sattenapalli Mandal to stop and prevent illegal construction of a platform for the erection of the statue of Sri Y.S.R. in Pakalapadu Gram Panchayat office premises by private respondents 6 and 7. The petitioner claimed that the panchayat office is located in about 60 square yards in survey No. 168 having been constructed in 2008. The Mandal Development Officer and the Panchayat Secretary were alleged to be encouraging the said construction by respondents 6 and 7, which inconveniences the public in entering the office premises. The representation of the petitioner and others dated 09-12-2011 was unattended. The material papers enclosed show the representation to have been acknowledged by the office of the Collector.

2. At the time of admission of the writ petition, interim directions were given on

20-12-2011 in W.P.M.P. No. 41647 of 2011 as follows:

Learned Government Pleader for Revenue takes notice for respondent Nos. 1 to 3.

Sri G. Elisha takes notice for respondent Nos. 4 and 5.

Series of cases are coming up before this Court complaining that individuals/ organizations are erecting statues indiscriminately on public properties.

In order to regulate such activities, the State Government issued orders in G.O.Ms. No. 55, Transport, Roads & Buildings (R.I) Department, dated 08-04-2003 laying down certain guidelines. The guidelines prohibit the R & B Department from granting permission for erection of statues, which cause inconvenience to the public. If statutes/monuments are unavoidable on roads, they should be located only on large traffic islands, gardens, parks, premises of Government buildings, town halls or places of public importance and in case approval of the Government is required, the same shall be recommended by a statue committee headed by the District Collector comprising Superintendent of Police, Superintendent Engineer, R & B Chairman/CEO, Local Municipal Body, Superintendent Engineers (PR), Superintending Engineer (AP Transco) and the concerned Executive Departments who shall examine all aspects before making any recommendations.

The guidelines have also imposed several obligations on the organizations that may seek to erect the statues.

Even though the State Government had issued the aforesaid guidelines, the cases which have come up before this Court show that the guidelines, are often enforced with impunity. Neither the State Authorities nor the District Authorities appear to be evincing interest in the matter, which is resulting in erection of statues illegally and indiscriminately and in violation of the guidelines. Besides the aforesaid guidelines, there is a statutory obligation on the Gram Panchayats to maintain public roads free from encroachments. Section 53 of the Andhra Pradesh Panchayat Raj Act, 1994 under which public roads in the village are vested remain under the control of the panchayat and Section 98 imposes an obligation on the Executive Authority of the Panchayat to remove the encroachment by a notice to the encroacher. Similar provisions are there in Municipal Laws. Therefore, no individual/organization is entitled to erect statues as they like. The State Government while issuing the guidelines and the District Collectors who heads the statue committee cannot abdicate their responsibility by allowing unauthorized erection of statues.

In the instant case, it is stated that the entire extent of land on which the Gram Panchayat building located is only 60 square yards and there is hardly any space to erect the statue.

In the circumstances, I deem it appropriate to direct respondent Nos. 1 to 5 to take immediate steps to ensure that no statue is installed by respondent Nos. 6 and 7. I also direct respondent Nos. 6 and 7 not to install any statue. This order

is subject to further orders.

3. Respondents 6 and 7 filed their counter-affidavit along with W.V.M.P. No. 67 of 2012 stating that some of the villagers including respondents 6 and 7 represented to the Tahsildar, Sattenapalli/Special Officer of the Gram Panchayat on 24-11-2011 for permission to install the statue of Dr. Y.S. Rajasekhara Reddy, former Chief Minister, in the Gramakantam land besides the bus stand and opposite to the Grampanchayat office. The Special Officer convened a meeting of all the villagers on 28-11-2011 and the villagers including the brother of the petitioner signed a resolution in the presence of the Tahsildar, Rural Circle Inspector and all the villagers and the people representing the Congress and Telugudesam parties shifting the proposed site to the open place in the campus of the Panchayat office. All the concerned officials met on 30-11-2011 and resolved to allow the installation of the statue on the South-East corner of panchayat compound. There was no inconvenience to the movements at the panchayat office by the proposal, which is abutting a private house on the South. The site is between the said private site and the stair-case of the panchayat office with a comfortable distance between the site and the R & B road. No prescribed procedures have been violated and G.O. Ms. No. 55 has no application, as the site is not on R & B road. The panchayat resolution is binding on the petitioner and hence, respondents 6 and 7 sought for vacating the interim order and dismissal of the writ petition.

4. While so, W.P. No. 249 of 2012 was filed by another writ petitioner against the 6th respondent in W.P. No. 33490 of 2011 and five official respondents to direct the Collector, District Panchayat Officer, Superintending Engineer, R & B and Superintendent of Police to ensure that the Tahsildar/Special Officer of Pakalapadu Gram Panchayat and the 6th respondent in W.P. No. 33490 of 2011 do not erect any statue opposite the Gram Panchayat and adjacent to the R & B road and Boddu Rai at Pakalapadu.

5. The petitioner in W.P. No. 249 of 2012 also claimed that the panchayat office is situate by the side of R & B road and the centre is already congested. Respondents 6 and 7 in W.P. No. 33490 of 2011 and others dug a pit on 21-11-2011 by the side of the bus shelter before the goddess, Boddu Rai in between the corners of R & B road and the society road for erection of the statue of Dr. Y.S. Rajasekhara Reddy. When the petitioner and the villagers obstructed the same, they were threatened and then they represented to the Joint Collector, Revenue Divisional Officer and the Tahsildar that any statue at that place will inconvenience the public and cause accidents. It will obstruct any widening of the R & B road and the access to the main road from the approach road will be affected. The elected body of the Gram Panchayat refused to accord permission for installation of any statue at the bus stand centre. The person incharge and the 6th respondent colluded to install the statue contrary to rules and regulations. The petitioner issued a notice also on 23-11-2011 to all the respondents and as per Sections 96, 98 and 101 of the Andhra Pradesh

Panchayat Raj Act read with G.O. Ms. No. 55 Panchayat Raj and Rural Development dated 03-12-1999, no projection or encroachment into any public road can be made by any person. Any new statues can only be with the prior permission of the Government preceded by a recommendation from the prescribed statue committee, which will examine all the relevant aspects. The organizers have to acquire the land and maintain the proposed statue. No permission was even requested, leave alone obtained from the Gram Panchayat or the statue committee or the Government. The petitioner referred to the interim orders in W.P. No. 30827 of 2011, dated 23-11-2011 and requested to direct the official respondents to ensure that respondents 5 and 6 do not erect any statue at the proposed place.

6. Later the Panchayat Secretary/5th respondent filed a counter-affidavit stating that on the representation of some of the villagers of Pakalapadu to the Tahsildar, Sattenapalli to permit them to erect the statue of late Sri Y.S. Rajasekhara Reddy, former Chief Minister of Andhra Pradesh, in the open space available at the office of the Gram Panchayat along with a copy of the memorandum of understanding between the rival groups in the village agreeing for the same, the Tahsildar, who is also the Special Officer of Pakalapadu Gram Panchayat, conducted a special meeting with the concerned officials on 28-11-2011 and resolved that the statue can be erected after obtaining permissions from the concerned authorities. The Special Officer of the Gram Panchayat informed the District Panchayat Officer, Guntur on 29-11-2011 for further action and no such permission has been received from the District Collector, who is the competent authority under G.O. Ms. No. 55, dated 08-04-2003. The District Collector will get the remarks from the concerned authorities before granting any permission and the request for further action submitted by the Panchayat Secretary to the Collector informing about the resolution of the Gram Panchayat by the Special Officer was not yet ordered. As no permission has so far been granted, the writ petition was claimed to be devoid of merits.

7. Heard Sri Posani Venkateswarlu, learned counsel for the petitioner in W.P. No. 249 of 2012 on behalf of the petitioners in both the writ petitions, Sri Kasa Jagan Mohan Reddy, learned counsel for respondents 6 and 7 in W.P. No. 33490 of 2011, Sri G. Elisha, learned standing counsel for Panchayats and the learned Assistant Government Pleaders concerned for other official respondents.

8. In the interim orders in W.P.M.P. No. 41647 of 2011 in W.P. No. 33490 of 2011 and W.P.M.P. No. 38226 of 2011 in W.P. No. 30827 of 2011 in identical orders, the same learned Judge referred to G.O. Ms. No. 55 Transport, Roads and Buildings (R.I) Department, dated 08-04-2003 laying down certain guidelines to regulate the activities of erecting statues on public properties. The learned Judge observed about non-compliance with the guidelines and absence of any interest for the authorities to prevent violation of the guidelines. The learned Judge also referred to Sections 53 and 98 of Andhra Pradesh Panchayat Raj Act, 1994 casting a statutory obligation on the Gram Panchayats to maintain public roads

free from encroachments. The learned Judge also referred to similar provisions under the Municipal laws. The learned Judge, therefore, opined that the State Government and the District Collectors cannot abdicate their responsibilities by allowing unauthorized erection of statues. The interim directions against erection of the statues were, hence, given by the learned Judge.

9. The primary emphasis of Sri Kasa Jagan Mohan Reddy is about the inapplicability of G.O.Ms. No. 55 beyond the roads of Roads and Buildings department. While it is true that the Government Orders were issued by the Transport, Roads and Buildings department of the State Government, the request of the Chief Engineer, Roads and Buildings and the issuance of the guidelines were referred to as concerning installation/erection of statues/monuments. The Government Orders referred to permission from the concerned authorities or the Collector and also prohibition against permission by the Collector or concerned authorities thereafter without the approval of the Government in Roads and Buildings department. In the event of the requirement of the approval of the Government, recommendation by the prescribed statue committee has been made mandatory, which committee shall take all aspects into account before making recommendation. The aspects of obstruction to flow of traffic, future expansion of roads, design of roads, water supply and sewerage pipe lines, electrical and telephone wires, cables, local situation, size of the statues/monuments, metal used and design were directed to be considered and a site plan was directed to be prepared and approved before any recommendation. The organization, which proposes the installation, has to compensate for the land and maintain the structure installed. The installation has to be completed within three months after permission. It was specifically directed that clearance of Municipal Corporation/Municipality/Urban Development Authority/Panchayat/Roads and Buildings Department/electricity authorities/water/drainage authorities concerned should be obtained before actual execution. The permission was directed to be given only in exceptional circumstances and not at road junctions or busy traffic points. The guidelines were clearly stated to be applicable to all Roads and Buildings roads, the right of way and lands abutting to R & B roads.

10. The resolution No. 2 passed in the special meeting of the Gram panchayat convened by the Special Officer itself referred to the proposed place of installation as the vacant site in the premises of the Gram panchayat office, Pakalapadu located between the panchayat office and Roads and Buildings road. The recommendation of Sattenapalli Mandal Level Statue Committee consisting of officials, dated 30-11-2011 is also for location of the statue similarly and the plan attached to the said recommendation also clearly shows that the Eastern boundary of the proposed site for installation of statue is Roads and Buildings road. Apart from these material papers filed by respondents 6 and 7 in W.P. No. 33490 of 2011, the counter-affidavit of the 6th respondent itself referred to the proposed site being in between the stair-case of the panchayat office and the road, the road admittedly belonging to the Roads and Buildings Department. The Panchayat Secretary in the counter affidavit to W.P. No. 249 of 2012 had stated

that the District Collector is the competent authority under G.O.Ms. No. 55 for granting permission for erection of the statue in the place between Gram Panchayat Office and the Roads and Buildings road and so far no permission was granted.

11. The admitted topography of the site proposed for installation of the statue, thus, clearly and unambiguously shows that the proposed site is abutting the Roads and Buildings road. As guideline No. 17 of G.O.Ms. No. 55 Transport, Roads and Buildings (R.I) Department, dated 08-04-2003 makes the guidelines applicable to all lands abutting the Roads and Buildings roads, it cannot, ex facie, be considered that the Government Orders have no application to the site where it is proposed to install the statue notwithstanding that the place belongs to the Gram Panchayat. The resolution passed by the panchayat through its Special Officer and the recommendation of Sattenpalli Mandal Level Statue Committee are, undoubtedly, matters relevant for consideration of the request for installation of the statue, but the same will not obviate the necessity of complying with other guidelines of G.O.Ms. No. 55 in view of the land being admittedly located abutting the Roads and Buildings road.

12. Sri Jagan Mohan Reddy, learned counsel referred to the provisions of the Andhra Pradesh Panchayat Raj Act, 1994 and the Rules made thereunder with reference to the resolution of the Gram Panchayat through its Special Officer and the manner in which such a resolution can be interfered with. But in the facts and circumstances of the present consideration, the question of any cancellation of or interference with any resolution of the Gram Panchayat is not the question in issue. But notwithstanding the existence of such resolution, the guidelines issued by the Government in exercise of its administrative power or jurisdiction make it mandatory that apart from the clearance of the Panchayat and the other concerned authorities, the proposal should also satisfy the contents of the other guidelines and the installation should be preceded by prior permission from the Collector or concerned authorities or the Government on the recommendations of the Statue Committee, as may be appropriately applicable. Compliance with the procedure prescribed by the guidelines and satisfying all the required conditions precedent for permission for installation of such statues are, hence, to be positively satisfied before any commencement or completion of erection of statues within the stipulated period under the guidelines.

13. The guidelines under G.O.Ms. No. 55 are, ex facie, not contended to be not within the competence or jurisdiction of the State Government and their legal and constitutional validity are not the subjects in issue in these writ petitions. The guidelines incorporated in G.O.Ms. No. 55 prescribed in public interest clearly appear to contain salutary safeguards and cannot be brushed aside as irrelevant to the question of erection of statues/monuments on public properties. The imposition of the various obligations on the persons/organizations proposing to erect statues or monuments is also intended to safeguard the dignity of the persons whose statues are erected or in whose memory the monuments are

installed without being left unattended after such installation or erection. Apart from the statutory obligation of the Gram Panchayat to maintain public roads and properties within its jurisdiction and protect public interest, all such considerations are safeguarded, if strict compliance with the provisions of G.O.Ms. No. 55 is ensured in so far as the present question is concerned without expressing any further opinion on the general situation referred to in the interim orders of this Court referred to above.

14. Therefore, the proposed erection/installation of a statue on the application of respondents 6 and 7 in W.P. No. 33490 of 2011 and others dated, 24-11-2011 as resolved in the special meeting of Pakalapadu Gram Panchayat by the Special Officer on 28-11-2011 and as recommended by Sattenapalli Mandal Level Statue Committee on 30-11-2011 as per the proposed plan between Pakalapadu panchayat office building and the Roads and Buildings road to the East in the premises of the panchayat office, shall be considered in accordance with the procedure prescribed by G.O.Ms. No. 55 Transport, Roads and Buildings (R.I) Department, dated 08-04-2003 and determined on merits duly considering the objections of the petitioners in W.P. No. 33490 of 2011 and W.P. No. 249 of 2012 and others within a reasonable time by the authorities concerned and the District Collector, Guntur/1st respondent in both the writ petitions. Any installation/erection of the statue shall be only after grant of required permission as per G.O.Ms. No. 55 Transport, Roads and Buildings (R.I) Department, dated 08-04-2003 and after obtaining necessary clearances from the concerned authorities wherever necessary before actual execution as per guideline No. 10 therein. Respondents 5 to 7 in W.P. No. 33490 of 2011 and respondents 5 and 6 in W.P. No.249 of 2012 can erect/install the statue as proposed only after such permission and clearances are obtained and within the prescribed time from such permission and clearances strictly in terms of G.O.Ms. No. 55 Transport, Roads and Buildings (R.I) Department, dated 08-04- 2003. The writ petitions are disposed of accordingly with the above directions. No costs.