



HIGH COURT OF ANDHRA PRADESH
TUESDAY ,THE FIRST DAY OF OCTOBER
TWO THOUSAND AND NINETEEN

PRESENT

THE HONOURABLE SRI JUSTICE C.PRAVEEN KUMAR
THE HONOURABLE SRI JUSTICE M.SATYANARAYANA MURTHY
WRIT PETITION NO: 3489 OF 2015

Between:

1. Nakka Raja Babu, S/o. Late Sri Swamy Hindu, Aged 50 years, Occ: Cultivation R/o. Rajavolu, Rajahmundry Rural Mandal East Godavari District.
2. Vallepalli Venkata Subrahmanyam S/o. Late Sri Bulli Venkanna, Occ: Cultivation R/o. D.No.3-1226, Hukkumpeta, Rajahmundry Rural Mandal, East Godavari District.

...PETITIONER(S)

AND:

1. State of Andhra Pradesh Rep. by its Principal Secretary, Municipal Administration & Urban Development Dept., Secretariat, Hyderabad.
3. State of Andhra Pradesh Rep. by its Principal Secretary, Panchayat Raj & Rural Development Department Secretariat, Hyderabad.
4. Rajamundry Municipal Corporation Rep. by its Commissioner Rajamundry, E.G. District.
5. Commissioner Panchayat Raj & Rural Development State of Andhra Pradesh, Urdu Galli, Himayatnagar Hyderabad.
6. District Collector, East Godavari District Kakinada. -
7. District Panchayat Officer Kakinada, East Godavari District. -

...RESPONDENTS

Counsel for the Petitioner(s): VEDULA SRINIVAS

Counsel for the Respondents: GP-MUNCIPAL ADMN AND URBAN DEV(AP)

The Court made the following: ORDER



THE HON'BLE THE ACTING CHIEF JUSTICE SRI C. PRAVEEN KUMAR

AND

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

Writ Petition No.3489 of 2015 and PIL No.79 of 2014

JUDGMENT : *(Per Hon'ble Sri Justice M. Satyanarayana Murthy)*

1. One Guvvala Venkateswara Rao and 18 others, residents of Lalacheruvu and Rajanagaram Mandals and other villages of same Mandal of Rajahmundry, East Godavari District, filed PIL No.79 of 2014 under Article 226 of The Constitution of India, challenging the G.O.Ms.No.44 dated 04.03.2014 and declare the same as illegal, arbitrary and contrary to the order of this Court in PIL No.119 of 2013 dated 21.10.2013.

2. The petitioners Nakka Raja Babu and Vallepalli Venkata Subrahmanyam, residents of Rajavolu and Hukkumpeta respectively, Rajahmundry Rural Mandal, East Godavari District, filed Writ Petition No.3489 of 2015 under Article 226 of The Constitution of India, challenging the memo No.9105/Elec.II/2013, dated 02.12.2014 and Memo No.9105/Pts.III/A1/2013-6 dated 06.01.2015, declare the same as illegal, contrary to the direction issued by this Court in PIL No.79 of 2014 dated 24.03.2014 and issue consequential direction to the respondents not to take over the records of 21 Gram Panchayats highhandedly, till disposal of PIL No.79 of 2014.

3. The W.P No.3489 of 2015 is only for grant of interim order during pendency of the PIL No.79 of 2014. Therefore, we find that it is appropriate to decide the PIL as a leading petition.



4. The petitioners are the residents of various Gram Panchayats of East Godavari District, own and possessed agricultural land in the villages, cultivating the same. The 1st petitioner is resident of Lalacheruvu Gram Panchayat, petitioners 2 and 3 are the residents of Velugubanda and Namavaram villages. Similarly the other petitioners are also permanent residents of the neighbouring villages of Rajanagaram Mandal and Rajahmundry Rural Mandal of East Godavari District.

5. The election for the said panchayats under the A.P Panchayat Raj Act, 1994 (for short 'The Act'), were proposed to be held in the year 2007, since the term of the elected body was expired after five years, but no election was conducted. A Special Officer was appointed by the government to head the village panchayats. While the matter stood thus, respondent Nos.1 and 2 decided to de-notify twenty two Gram Panchayats of surrounding areas of Rajahmundry to merge them with the Rajahmundry Municipal Corporation. Out of twenty two Gram Panchayats, seventeen Gram Panchayats did not accept the merger. Those are Kolamuru, Venkatanagaram, Torredu, Katheru, Pidimgoyyi, Satellite city, Bommuru, Hukumpeta, Dowleswaram, Rajavolu, Palacherla, Lalacheruvu, Dewan Cheruvu, Rajanagaram, Velugugonda, Narendrapuram and Namavaram. The remaining five Gram Panchayats accepted for merger into Rajahmundry Municipal Corporation. Since the 17 Gram Panchayats did not accept the merger, the government issued a notice dated 16.06.2011 under Section 246 (1) of The Act to show cause as to why their Gram Panchayats should not be included in Rajahmundry



Municipal Corporation/3rd respondent herein. The Gram Panchayats again passed resolution, in the Gram Sabha, opposing merger.

6. The government issued two G.Os viz., G.O.Ms.No.99 dated 18.03.2013 by Panchayat Raj and Rural Development Department, G.O.Ms.No.94 dated 18.03.2013 by Municipal Administration and Urban Development Department. As per G.O.Ms.No.99, the government has invoked its power under Section 246 (1) of The Act, to cancel the resolutions passed by those Gram Panchayats who are opposing the merger with the Rajahmundry Municipal Corporation. Simultaneously de-notified all the twenty two Gram Panchayats by exercising power under Section 3 (2) (f) of The Act, so as to include those villages into 3rd respondent herein. As per G.O.Ms.No.94, all these Gram Panchayats were merged with 3rd respondent under Section 3 (2) of A.P Municipal Corporations Act, 1994, extending the corporation limits.

7. The action of 1st respondent, cancelling resolutions passed by seventeen Gram Panchayats, de-notifying all twenty two Gram Panchayats, by merging the gram panchayats into the 3rd respondent, was questioned before the High Court of Andhra Pradesh at Hyderabad in PIL Nos.119 to 127, 141 to 144, 184 to 186, 131, 241, 243 and 261 of 2013 by the petitioners herein who are the permanent residents of different Gram Panchayats on various grounds. Pending those writ petitions, the High Court of A.P was pleased to direct the respondents to maintain status quo and they were heard and disposed of by an order dated 21.10.2013. Thereafter, election



notification was issued by the State and realized the mistake, issued G.O.Ms.No.44 dated 04.03.2014, clarifying that there is no need to invoke Section 246 (1) of The Act. In fact the High Court of A.P at Hyderabad issued a direction to follow the procedure under Section 246 (1) of The Act by order dated 21.10.2013. Instead of implementation of the direction issued by this Court, in the batch of writ petitions, respondent Nos.1 and 2 conveniently circumvented the order and issued the present G.O cancelling Notification-I, part of G.O.Ms.No.99 while retaining Notification-II. The action of the respondents is in utter disregard of the direction issued by this Court in the batch of writ petitions and it is nothing but an arbitrary and unreasonable act without following A.P Grampanchayats (Declaration of Villages) Rules, 2007. Hence, sought to set aside G.O.Ms.No.44 dated 04.03.2014 declaring the same as illegal, arbitrary and contrary to the orders of this Court in PIL No.119 of 2013 and batch.

8. The other writ petition is only for interim direction, not to take possession of the records of twenty two Gram Panchayats and therefore, the pleadings are identical to other petition, hence, it is unnecessary to repeat, to decide the real controversy.

9. The respondents did not file any counter in both the writ petitions, raising any specific contention.

10. Heard, the learned Counsel for the petitioners Sri Vedula Srinivas in both the petitions, the learned Government Pleader for Panchayat Raj Department and learned Government Pleader for Municipal Administration.



11. It is an admitted fact that these petitioners and others filed batch of writ petitions and those petitions were disposed of on 01.10.2013, wherein the G.O.Ms.No.99 PR & ED (PTS) IV Department dated 18.03.2013 issued by 1st respondent, and G.O.Ms.No.94 MA UD, Department dated 18.03.2013 issued by 2nd respondent were challenged on the ground that they are contrary to the provisions of The Act. In the said petitions, the respondents raised several contentions, identical to the contentions urged before this Court and one such contention was that there is no necessity to take any decision in the light of Section 246 (1) of The Act, as it is bound by Section 3 (2) (f) of The Act as noted by the Division Bench of High Court of A.P at Hyderabad. However, issued the following direction:

*“we have considered rival contentions of the parties. We are of the view that when the provision under Section 246 of The Act has been invoked, it should have been invoked in true and complete sense. The aforesaid provision requires that the government shall pass an order of cancellation on certain grounds as mentioned therein. No such order of cancellation has expressly been passed by the respondents on the views or resolutions adopted by the concerned Gram Panchayats. We think that such decision is *sina quo nan* when the procedure has been adopted by the government itself. Accordingly, we direct the government to take decision in the light of the provisions of Section 246 of The Act for cancellation of the resolutions adopted by the concerned Gram Panchayats. Such decision shall be taken in accordance with law within a period of eight weeks from the date of receipt of a copy of this order and such decision will abide by the decision of the inclusion of those panchayat areas with the Rajahmundry Municipal Corporation”.*



12. When a specific direction was issued by the Division Bench of High Court of A.P at Hyderabad, the duty of respondent Nos.1 and 2 is to implement the order or challenge the same before the Apex Court. The order passed in PIL Nos.183 of 2013 and 243 of 2013, was challenged by Kamuju Surya Narayana Nehru and others before the Apex Court, but the Apex Court, dismissed the Special Leave Petitions, at the stage of admission itself by order dated 17.01.2014. Thus, the order of the Division Bench of High Court of A.P at Hyderabad was affirmed by the Apex Court also.

13. Instead of implementing the order, the respondent Nos.1 and 2 realizing the mistake, issued G.O.Ms.No.44 dated 04.03.2014, canceling Part I of G.O.Ms.No.99, while retaining Part II of it. In G.O.Ms.No.44 which is impugned in the writ petition, made it clear that the government is empowered to take a decision, on de-notification of Gram Panchayat in accordance with Section 3 (2) (f) of The Act and not required to invoke Section 246 of The Act as mentioned in para No.3 of the show cause notice issued by government Memo No.10840/Pts.14/06-4 PR & RD Department dated 16.06.2011 and also noted the direction of this Court in para No.4 of the G.O and omitted Part I of notification in G.O.Ms.No.99 dated 18.03.2013 while retaining Part II of it, without implementing the direction issued by the Division Bench of High Court of A.P at Hyderabad.

14. In fact, a similar contention was urged before the Division Bench of High Court of A.P at Hyderabad in the batch of writ petitions



and the same was noted but no finding was recorded by the Division Bench of A.P High Court at Hyderabad. Taking advantage of absence of any finding, to circumvent the order of this Court, 2nd respondent issued G.O.Ms.No.44 dated 04.03.2014, proposing to merge twenty one village panchayats into 3rd respondent and notified under Section 3 of Municipal Corporations Act, Act 25 of 1994. Another notification dated 18.03.2013 vide G.O.Ms.No.99 was issued by 1st respondent exercising power under Section 246 (1) of The Act, merging twenty one villages in 3rd respondent. Thus, it is evident from the notification, that only by invoking Section 246 (1) of The Act, the twenty one villages were merged in 3rd respondent and it was never their case before the Division Bench of the High Court of A.P at Hyderabad that by invoking Section 3 (2) (f) of Act, de-notified the twenty one villages and merged in the 3rd respondent. But they cancelled the resolution passed by Gram Sabha against merger, the G.O was silent as to the consideration of the requirements contained in Section 246 of The Act. Therefore, the Division Bench of High Court of A.P issued such direction to the respondents, to follow the procedure under Section 246 (1) of The Act, while noting the contention that the respondent Nos.1 and 2 can de-notify the villages by exercising power under Section 3 (2) (f) of The Act, in fact it was not their case at any stage before the Division Bench in the earlier round of the litigation, that they followed the procedure under Section 3 (2) (f) of The Act to de-notify the villages, in view of the specific notification under Section 246 (1) of The Act vide G.O.Ms.No.99 dated 18.03.2013. When those notifications were set aside or quashed by the Division Bench in toto,



by common order in the batch of writ petitions referred above, the duty of the respondent Nos.1 and 2 is to strictly adhere to the direction issued by the Court and pass appropriate order under Section 246 (1) of The Act.

15. During hearing, the learned Government Pleader for Panchayat Raj and learned Government Pleader for Municipal Administration, vehemently contended that the government is competent to invoke Section 3 (2) (f) of The Act to de-notify any villages and therefore, they invoked Section 3 (2) (f) of The Act and denotified the twenty one villages. As such there is no need to pass any order invoking Section 246 of The Act.

16. At this stage, it is relevant to advert to the provisions of the Act. Part II of Chapter I of the Act deals with constitution, administration and control of Gram Panchayats and Section 3 of The Act, empowered the government to issue notification declaring any revenue village or hamlet thereof or any part of Mandal to be a village for the purpose of this Act and specify the name of the village. Explanation thereto made it clear that for the purposes of this subsection the expressions 'mandal' and 'revenue village' shall mean respectively any local area which is recognized as a mandal or village in the revenue accounts of Government after excluding therefrom the area, if any, included in. Thus, specific procedure is provided both for notifying any area as village or to de-notify the same. In view of the specific contention urged before this Court, it is apposite to extract Section 3 (1) and 3 (2) (f) of The Act and it runs follows:



Section 3: *Declaration of a village for the purposes of this Act.*

- (1) *The Government may, by notification and in accordance with the rules made in this behalf, declare any revenue village or hamlet thereof or any part of a Mandal to be a village for the purpose of this Act and specify the name of the village.*
- (2) *The Government may, by notification and in accordance with such rules as may be prescribed in this behalf-*
- (f) *cancel a notification issued under sub-section (1).*

17. In fact all these twenty one villages were notified under Section 3 (1), as villages for the purpose of this Act and elections are being conducted for those villages by the government as per the provisions of A.P Panchayat Raj Act. The purpose of sub section (1) of Section 3 is exclusion of any area, if any included in a municipal corporation governed by the relevant law relating to Municipal Corporations for the time being in force in the State or any municipality governed by the law relating to Municipalities for the time being in force in the State or any mining settlement area governed by the Andhra Pradesh (Telangana Area) Mining Settlements Act, 1956 or any cantonment governed by the Cantonments Act, 1924. Thus, it is clear from Explanation to sub-section (1) of Section 3 of The Act, extracted above that any part of area including municipal corporation, municipalities or mining settlement area or cantonment area, be notified as village by issuing notification under Section 3 (1) of The Act.

18. If any notification is issued under Section 3 (1) of The Act by exercising power under sub-section (2) of Section 3 of The Act by issuing any notification, create a Gram Panchayat for the purpose of



providing a Panchayat Secretary, cancel a notification issued under sub-section (1) under clause 'f'. Therefore, the power conferred under sub-section (2) is only for the limited purpose of separation of a particular area of one panchayat to create another Gram Panchayat newly or to constitute a Gram Panchayat declaring revenue village as village for the purpose of the Act, such power can be exercised de-notifying any village, canceling the notification issued under sub-section (1) of Section 3 of The Act. Even assuming for a movement that such power is conferred on the government to cancel the notification issued under sub-section (1), invoking sub-section (2) clause 'f', the government is required to take into consideration the financial viability of the Gram Panchayat to be newly created, before bifurcation of the said Gram Panchayat. The proviso added by Act 25 of 2002 which came into effect on 20.06.2002 is only for limited purpose. Merely because the villages are de-notified, cancelling the notification issued under sub-section 1, it will not automatically merge into 3rd respondent herein.

19. Section 246 of The Act deals with power of the government to cancel or suspend resolutions of Gram Panchayat, Mandal Parishad or Zilla Parishad either suo motto or on a reference made to them by the Executive Authority or Mandal Parishad Development Officer or as the case may be, the Chief Executive Authority in the manner prescribed by order in writing, cancel any resolution passed by a Gram Panchayat Mandal Parishad or a Zilla Parishad or any Standing Committee of Zilla Parishad, if in their opinion such resolution is not legally passed; or passed in excess or abuse of the powers conferred



by or under this Act, or any other law; or on its execution is likely to cause danger to human life, health or safety or is likely to lead to a riot or affray. The government shall, before taking action under sub-section (1), give the Gram Panchayat, Mandal Parishad or the Zilla Parishad as the case may be, an opportunity for explanation. Thereafter even in the opinion of the District Collector, immediate action is necessary to suspend a resolution on any of the grounds referred to in clause (c) of sub-section (1), he may make a report to the Government and the Government may, by order in writing, suspend the resolution.

20. But, here it is not the case respondent Nos.1 to 3 that the resolutions or decision taken by twenty one panchayats would fall under sub-section (1) of Section 246 and no order has been passed, despite the direction issued by High Court of Andhra Pradesh at Hyderabad in the batch of writ petitions referred above. In utter disregard of the direction issued by this Court, exercised power under Section 3 (2) (f) cancelling the notification issued under sub-section (1) of Section 3 of The Act. When these twenty one villages are de-notified by exercising power under Section 3 (2) (f), those villages would not merge in 3rd respondent automatically.

21. Special procedure is prescribed under the rules for de-notifying the villages exercising power under Section 3 (2) (f) of the Act. Rules 8, 9, 10 and 12 of A.P Gram Panchayats (Declaration of village) Rules, 2007 which reads as follows:

Subject to the provisions contained in the Act and these rules, where a Gram Panchayat passes an unanimous



resolution that a local area shall not be excluded from or included in a village, the Government, if satisfied that such resolution is not vitiated by any irregularity, impropriety or illegality shall not, except for special reasons to be recorded in writing, exclude from or include in that village any such area.

9. Where it becomes necessary to take action under sub-section (2) of Section 3 of the Act, to exclude from a village any local area or include in village any local area or unite two or more villages or parts of villages or to alter the boundaries of any villages or to alter the name of any village in giving effect to these rules, the Government shall, before issuing a notification therefor, give the Gram Panchayat, which will be affected by the issue of such notification, an opportunity of showing cause against the proposal to indicate its decision within a period of ten days from the date of receipt of the show cause notice and consider the objections, if any, of such Gram Panchayat;

Provided that where a Special Officer has been appointed to exercise the powers and perform the functions of the Gram Panchayats and its Sarpanch and Executive Authority, such Special Officer shall be given the aforesaid opportunity and the Special Officer shall make his representation within a period of ten days from the date of receipt of the show-cause notice after taking into consideration the views expressed by the members of the Gram Sabha at special meeting convened for the purpose.

Provided further that if no reply to the show cause notice from the Gram Panchayat or the Special Officer is received within the period aforesaid, the Government shall pass such orders as deemed fit to give effect to the proposal.

10. Where a notification for the declaration of a village has been issued by the Government, it shall be open to any Gram Panchayat affected to prefer revision petition to the Government through the Commissioner, within fifteen days from the date of publication of such notification and the Government, may pass such orders thereon as they may deem fit.

12. (1) It shall be competent for the Government to cancel a notification under clause (f) of sub-section (2) of Section 3, in the following circumstances namely: -

(i) Where it is proposed to constitute a municipality or a notified area under Section 389-A of the Andhra Pradesh Municipalities Act, 1965, or a Municipal Corporation for a village or for group of villages or part thereof declared as village under sub-section (1) of Section 3 of the Act;

(ii) Where a village declared under sub-section (1) of Section 3 or part thereof is proposed to be merged in a neighbouring Municipality or a Municipal Corporation or a Notified Area constituted under Section 389-A of the Andhra Pradesh Municipalities Act, 1965, and the residuary area is not, in the opinion of the Government, a viable unit for continuing as a Gram Panchayat;

(iii) Where the revenue village or part thereof declared as a village under sub-section (1) of Section 3 of the said Act ceases to be a



revenue village due to sub-mersion or depopulation and the necessity for a Gram Panchayat ceases;

(iv) Where it is found in the actual working that the Gram Panchayat for the village declared under sub-section (1) of Section 3 cannot function efficiently as a viable unit of local self-government;

(2)The Government shall, before issuing a notification under clause (f) of sub-section (2) of Section 3 of the Act, give to the Gram Panchayat, which will be affected by the issue of such notification, an opportunity of showing cause against the proposal to indicate its decision within a period of ten days from the date of receipt of the show cause notice and consider the objections, if any, of such Gram Panchayat;

Provided that if no reply to the show cause notice from the Gram Panchayat is received within the period aforesaid, the Government shall pass such orders as deemed fit, to give effect to the proposal.

Powers shall be vested with Government for relaxation of rules contained in this order.

22. In utter disobedience of the direction issued by this Court in the batch of writ petitions referred above without following the relevant rules referred above, respondent Nos.1 and 2 invoked Section 3 (2) (f) of The Act de-notifying the villages under sub-section (1) of Section 3 of The Act. Such exercise of power circumventing the direction issued by the Division Bench of High Court of A.P at Hyderabad is nothing but willful disobedience of the judicial order by the administrative authorities, in the sense it amounts to contempt. Emphasizing on the power of the administrative authorities to circumvent the judgment and order of the Court and passing any other order, the court in ***Reliance Petrochemicals Ltd vs. Proprietors of Indian Express Newspapers, Bombay Pvt. Ltd***¹, observed that the public interest demands that there should be no interference with the judicial process and the effect of the judicial decision should not be pre-empted or circumvented by public

¹ AIR 1989 SC 190



agitation or publications. The Apex Court also emphasized the importance of arising contempt in the light of the facts of the case, opining that while ensuring that the due course of justice remains in. The question of contempt must be each in a particular situation. Similarly, mis-interpretation of the court proceedings would also amount to a serious contempt as observed by the Apex Court in ***In Re: P.C. Sen vs Unknown***² the act of contemnor, whether it is calculated to interfere with the administration of justice or whether it would have baneful effects, it would amount to contempt. The Court further emphasized on the duty of the court to preserve their proceedings from being mis-represented, because prejudicing the minds of the public against persons concerned as parties in causes before the cause is finally heard has pernicious consequences.

23. Reflecting on the fact of mis-interpretation of the court in ***William Thomas Shipping Co., in re. H. W. Dhillon & Sons Ltd. v. The Company, In re. Sir Robert Thomas and Ors***³, the Court observed that publication of injurious misrepresentations concerning the parties to the proceedings also amounts to contempt of Court, because it may cause those parties to discontinue or to compromise or it may deter persons with goods causes of action from coming to the Court, and was thus likely to affect the justice of the Court. If these principles are applied to the act done by the respondent Nos.1 and 2, more particularly when specific direction was given by the Court to the respondent Nos.1 and 2 to follow the procedure under Section 246

² AIR 1970 SC 1821

³ [1930] 2 Chancery Division 368



(1) of The Act, circumvented the order and took a decision to de-notify the twenty one villages exercising power under Section 3 (2) (f) of The Act. This can be described as administrative apathy or administrative anarchy on account of administrative trifles. The conduct of the respondent Nos.1 and 2 directly amount to degrading the judicial system directly flouting its orders. Moreover, the administrative authorities exercise its power to overcome the resolutions passed by twenty one Gram Panchayats against the merger of panchayats into 3rd respondent, having no ground enunciated under sub-section (1) of Section 246 of The Act. This is nothing but circumventing the law.

24. A separate procedure is prescribed even to de-notify any Gram Panchayat, exercising power under Section 3 (2) (f) of The Act. Rule 8, 9 and 10 of A.P Gram Panchayats (Declaration of villages) Rules, 2007 deals with the procedure to be followed for de-notifying any village. No such procedure prescribed in Rule 8, 9 and 10 of the Rules was followed but part of the G.O.Ms.No.99 was cancelled. Rule 12 enables, the government to cancel the notification issued under Clause 'f' of sub-section (2) of Section 3, where it is proposed to constitute a municipality or a notified area under Section 389-A of the Andhra Pradesh Municipalities Act, 1965, or a Municipal Corporation for a village or for group of villages or part thereof declared as village under sub-section (1) of Section 3 of the Act and sub Clause (2) of same Rule lays down a separate procedure for affording an opportunity showing cause against the proposal to indicate its decision within a period of ten days from the date of receipt of the show cause notice and consider the objections, if any, of such Gram



Panchayat; Provided that if no reply to the show cause notice from the Gram Panchayat is received within the period aforesaid, the Government shall pass such orders as deemed fit, to give effect to the proposal. Powers shall be vested with Government for relaxation of rules contained in this order.

25. A bare look at the Rules, more particularly Rules 8, 9, 10 and 12 of the Rules extracted above, even to de-notify any Gram Panchayat, it is necessary to take action under sub-section (2) of Section 3 of the Act to exclude from a village any local area or to include in village any local area or unite two or more villages or parts of villages or to alter the boundaries of any villages or to alter the name of any village in giving effect to these rules, the Government shall, before issuing a notification therefor, give the Gram Panchayat, which will be affected by the issue of such notification, an opportunity of showing cause against the proposal to indicate its decision within a period of ten days from the date of receipt of the show cause notice and consider the objections, if any, of such Gram Panchayat. Thus, a prior notice to exercise power under Section 3 (2) (f) to Gram Panchayat and effected Gram Panchayat is necessary. But it appears from the record that no such notice as mandated in Rule 9 of the Rules was issued to the Gram Panchayats being effected. In those, circumstances, G.O.Ms.No.44 dated 04.03.2014, cancelling the notification in G.O.Ms.No.99 dated 18.03.2013 which consists of notifications under Section 246 (1) and Section 3 (2) (f) of the Act, first part of the notification was cancelled, even retained the notification under Section 3 (2) (f) vide G.O.Ms.No.99. The procedure referred



under Rule 9 is mandatory. But as seen from G.O.Ms.No.99, no such procedure prescribed under Rules 8 and 9 of A.P Gram Panchayats (Declaration of Villages) Rules, 2007 was followed. Therefore, the retention of notification issued under Section 3 (2) (f) i.e. second part of G.O.Ms.No.99 is an illegality. G.O.Ms.No.94 dated 18.03.2013 issued by Municipal Administration & Urban Development (Elec.II) Department and G.O.Ms.No.99 dated 18.03.2013 issued by Panchayat and Rural Development (Pts.IV) Department is only a consequential Government Order, as G.O.Ms.No.44 was issued to circumvent the order of High Court of Andhra Pradesh at Hyderabad, without following the procedure and G.O.Ms.No.99 was issued in contravention of Rules referred above, both G.Os are liable to be struck down.

26. It is evident from the record that the respondents did not follow the procedure prescribed under Rule 8, 9, 10 and 12 of A.P Gram Panchayats (Declaration of Village) Rules, 2007. In such case part II of G.O.Ms.No.99 cannot be sustained. However, G.O.Ms.No.44 or G.O.Ms.No.99 are also silent as to compliance of Rule 8, 9, 10 and 12 of the Rules, when such Rule is not complied, the retention of Part II of G.O.Ms.No.99 is also an illegality. Therefore, the G.O.Ms.Nos.99 dated 18.03.2013 and G.O.Ms.No.44 dated 04.03.2014 are set aside. This order will not preclude the respondents from undertaking the process of merger of any villages into Rajahmundry Municipal Corporation, strictly adhering to the procedure prescribed under law.



27. In the result, the Public Interest Litigation is allowed declaring G.O.Ms.Nos.99 and 94 dated 18.03.2013 and G.O.Ms.No.44 dated 04.03.2014 as illegal, arbitrary and contrary to the provisions of law and hereby set aside. The Government is at liberty to take action for merger of Gram Panchayats into 3rd respondent i.e. Rajahmundry Municipal Corporation afresh strictly adhering to the provisions of A.P Gram Panchayats (Declaration of Villages) Rules, 2007. As a sequel to order in PIL, the Writ Petition No.3489 of 2015 is also allowed.

28. Consequently, miscellaneous petitions if any pending, shall stand closed.

ACTING CHIEF JUSTICE C. PRAVEEN KUMAR

JUSTICE M. SATYANARAYANA MURTHY

01.10.2019
Rvk