

BEFORE THE HON'BLE UPA-LOKAYUKTA OF ANDHRA PRADESH:: HYDERABAD.

PRESENT :: SRI M.RAMA KRISHNA, UPA-LOKAYUKTA OF A.P.

TUESDAY, THE 25TH DAY OF FEBRUARY, 2003.

COMPLAINT NO:921/2002/B-2.

BETWEEN:

J.Kondala Rao,  
Social Worker,  
Gurajada Village,  
Pamidimukkala Mandal,  
Krishna District.

... Complainant

A N D

1. Sri Jampana Srinivasa Goud,  
Village President,  
Gurajada Village,  
Pamidimukkala Mandal,  
Krishna District.
2. The Revenue Divisional Officer,  
Nuzvid, Krishna District.
3. The District Collector,  
Krishna District at Machilipatnam.

...Public Servants.

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O R D E R:

A telegram was sent in the name of one Jampana Kondala Rao, Social Worker, resident of Gurajada village, Pamidimukkala Mandal, Krishna District alleging that the public servant 1 has encroached Ac.0.97 cents of burial ground bearing R.S.No. 241/1 of Gurajada Village and converted the same into fish tank without taking permission from the concerned authorities. Vide orders of this Institution dt. 5.11.2002, the Revenue Divisional Officer, Nuzvid, Krishna District and the District Collector, Krishna District at Machilipatnam were added as Public Servants 2 and 3.

When reports were called for from Public Servants 2 and 3. ~~But~~, the District Panchayat Officer, Krishna District at Machilipatnam has submitted his report dt. 18.12.2002 and further report dt. 9.1.2003, whereas PS-1 submitted letters dt. 4.1.2003 and 24.1.2003 giving his stand. A copy of the report of the

District Panchayat Officer, Krishna District at Machilipatnam was sent to the complainant directing him to be present on 30.1.2003 for hearing and consideration. Accordingly, the complainant was present on that date. On perusal of the record and hearing the complainant as well as the Deputy Director(Legal) the matter is coming up today for orders.

It is seen from the report of the District Panchayat Officer Krishna District at Machilipatnam dt. 18.12.2002 that the D.P.O., Nuzvid has enquired and reported the matter to him. Basing on the said report, the D.P.O., submitted in his report that the PS-1 has misused his official position by shifting the burial ground from R.S.No. 241/1 to Rs.No. 178 in Gurajada village, Pamidimukkal Mandal. In fact, PS-1 has no right to shift the burial ground without the orders of the competent authority. As such, they are going to take necessary against him in accordance with the Panchayat Raj Act. He also submitted that he will submit his final report in the matter after completion of enquiry.

The District Panchayat Officer, Krishna at Machilipatnam in his further report, dt. 9.1.2003 has submitted that a notice was served on PS-1 i.e., Mr. Jampana Srinivasa Goud, u/sec. 249 of A.P. Gram Panchayat Act, 1994 to show cause why he should not be removed from the post of Sarpanch for the unlawful acts committed by him in shifting the burial ground from one place to another. He has also enclosed a copy of the same sent to PS-1.

PS-1 in his letter dt. 4.1.2003 has given various reasons for shifting burial ground. In the end, he submitted that considering the factual position, Vasthu (Geomancy) and on social welfare measure, he shifted the burial ground after taking consent from the villagers. In that regard, Gram Panchayat passed a resolution on 25.7.2002 under subject No.32. He has also enclosed proceedings dt. 25.7.2002, 5.8.2002 and 2.12.2002.

In his letter dt. 24.1.2003, PS-1 has submitted that the villagers were informed about the shifting of burial ground through beat of tom-tom in the village and for that, no one objected.

Mr.P.V.L.Narasimha Rao, Panchayat Secretary also gave a statement before the Mandal Revenue Officer, Pamidimukkala and two Mandal Revenue Inspectors on 16.9.2002 to the above effect. The same has been informed to the District Collector, Krishna District and the Revenue Divisional Officer, Nuzvid. The statement of Mr.P.V.L. Narasimha Rao, dt.16.9.2002 is contrary to statement given before the Divisional Panchayat Officer, Nuzvid. PS\_1 enclosed the statement of Mr.P.V.L.Narasimha Rao, Panchayat Secretary and the report of the Mandal Revenue Officer, Pamidimukkala, Krishna District.

The report of the Mandal Revenue Officer, Pamidimukkala dt. 14.9.2002 shows that during his enquiry, he visited the places in Gurajada and enquired into the matter. He also examined PS\_1, Mr.J.Kondala Rao and Panchayat Secretary. PS\_1 submitted before the Mandal Revenue Officer, Pamidimukkala that as the burial ground was in the North-East corner to the village and Southern side to the Harijanawada, the village was not developing. Hence, they proposed to shift burial ground from R.S.No. 241/1 to R.S.No. 178, which is situated on North-Vayuvya side. PS\_1 also informed the above proposal to the villagers through beat of tom-tom in the village. For shifting of the burial ground, the Gram Panchayat also passed a resolution by convening a meeting. He also decided not to undertake any work till he received orders from the Government. Mr.J.Kondala Rao and 8 others opposed shifting the burial ground to R.S.No. 178. Mr.Jampana Deepaiah and others have also given statement supporting the proposal of PS-1 for shifting burial ground. The Panchayat Secretary also gave statement saying that the old burial ground is against 'Vasthu'. Hence, the Gram Panchayat proposed to shift the burial ground. For that purpose, objections were called for from the villagers through beat of tom-tom and no one filed objection petitions. In that work, no Gram Panchayat funds were utilised. On examining various persons, the Mandal Revenue Officer, Pamidimukkala opined that there are village rivalries and personal animocities in the village. The Sarpanch (PS\_1) shifted the burial ground from one place to another without orders of the

Government. Thus, he (PS-1) committed the illegal acts by violating the rules in force. Therefore, the Mandal Revenue Officer, Pamidimukkala recommended to take appropriate action against the PS-1 under Sec. 94 of A.P.Panchayat Raj Act.

PS-1 in his letter dt. 11.2.2003 narrated various factors in shifting the burial ground from R.S.No. 241/1 to R.S.No.178. He also submitted replies to the allegations made against him, the Gram Panchayat requested the District Collector, Krishna and the District Panchayat Officer, Krishna to accord necessary permission and to issue orders in respect of burial ground which was shifted to R.S.No. 178 as per the consent of the villagers. He also sought for personal appearance before this Institution to submit his oral submissions.

It transpired from the perusal of the report of the District Panchayat Officer, Krishna referred to above<sup>and</sup> as per the report of the Divisional Panchayat Officer, Nuzvid and report of the Mandal Revenue Officer, Pamidimukkala, the Sarpanch, Mr. Jampana Srinivasa Goud (PS-1) shifted the burial ground from one place to another without permission of the Government and he violated the provisions of the A.P.Panchayat Raj Act. A show cause notice was issued to PS-1. It appears that the District Collector, Krishna (Panchayat Wing) has already initiated action for the commission of works taken up by PS-1 in violation of the Act and Rules.

The Hon'ble High Court of Andhra Pradesh by its orders dt. 7.8.2002 in W.P.No. 20042/96 in S.Rajasekhar and others Vs. the Government of Andhra Pradesh rep. by its Principal Secretary to Government, Municipal Administration Department, A.P. Hyderabad has observed that this Institution has no jurisdiction to give directions to the Municipal authorities for removal of encroachment or any other acts to be carried out. The jurisdiction of the Lokayukta and Upa-Lokayukta is only limited to the purpose of enquiring into the conduct of the employees of the State Government as well as local bodies with reference to their acts in the course of discharge of their employment.

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In the instant case, PS-1 does not come under the purview of the Act XI of 1983, as he is not covered under Section 2(k) of the Act. Further, in view of the above reported decision of the Hon'ble High Court, this Institution cannot give any direction to the authorities. But, as seen from the report of the District Panchayat Officer, Krishna, action has been initiated against PS-1 by PS-3 for the violations committed by PS-1. When the matter is subjudice before the concerned authorities, this Institution cannot interfere and give any directions. In the instant case, the Executive is competent to enquire and take appropriate action against the PS-1.

Since already, the District Collector, Panchayat Wing, Krishna District at Machilipatnam is seized of the matter and since the matter is subjudice before the concerned authorities, this Institution cannot interfere and give any directions. PS-1 is at liberty to explain his stand to the District Collector, (Panchayat Wing), Krishna (PS-3) in response to the show cause notice issued to him by ~~PS-3~~ the District Panchayat Officer, Krishna District at Machilipatnam.

In view of the above, there is no need or necessity for ordering further investigation in the matter by this Institution. As regards the justification stand taken by PS-1, PS-1 should seek his personal appearance before PS-3 who was issued show-cause notice to PS-1 for violation committed by him. Since the matter is subjudice by the concerned authorities, there is no need or necessity to order further investigation into the matter, except calling upon PS-3 to complete the enquiry at the earliest and pass appropriate orders in the matter in accordance with law and submit copy of the said orders to this Institution for purposes of record.

Ordered accordingly.

mms/\*

T.C  
 [Signature]  
 Registrar

Sd/- A. S. S.  
 [Signature]