**IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD**

MONDAY, THE TWENTY FOURTH DAY OF MARCH
TWO THOUSAND AND TWENTY FIVE

**PRESENT**

**THE HONOURABLE THE ACTING CHIEF JUSTICE SUJOY PAUL**
**AND**
**THE HONOURABLE SMT JUSTICE RENUKA YARA**

**WRIT APPEAL NO: 1638 OF 2017**

Writ Appeal under clause 15 of the Letters Patent against the order dt. 05.07.2017 in WP.No. 7116 of 2017 on the file of the High Court.

**Between:**

1. The state of Telangana, Rep.by its Principal Secretary, Panchayat Raj Department, Secretariat, Hyderabad.
2. The Commissioner, Panchyat Raj & Rural Development, Hyderabad.
3. The District Collector, Ranga Reddy District.
4. The District Collector, Vikarabad District.
5. The District Collector, Medchal District.

**...APPELLANTS**

**AND**

1. Chimpula Shailaja, W/o. Chimpula Satyanarayana Reddy, Aged about 40 years, OCc. ZPTC Member, Chevella R/o. H.No. 1-19, Devuniyerevally Village, Chevella Mandal, Ranga Reddy District.
2. Sri Chimpula Satyanarayana Reddy, S/o. Chimpula Anantah Reddy, Aged about 47 years, Occ. President Telangana Panchayat Raj Chamber, R/o. Devuniyerevally Village, Chevella Mandal, Ranga Reddy District.
3. The State of Telangana, Rep. by its Principal Secretary, Mines and Industries And Commerce Department, Secretariat, Hyderabad.
4. The Assistant Director, Mines & Geology, Ranga Reddy District.
5. The Assistant Director, Mines & Geology, Vikarabad, Vikarabad District.

   (Respondents 3 to 5 are necessary parties)

**...RESPONDENTS**

**I.A. NO: 1 OF 2017(WAMP. NO: 3120 OF 2017)**

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased suspend the operation of the order of the learned Single Judge passed in WP.No. 7116 of 2017 dt. 05.07.2017 pending disposal of the writ appeal.

**Counsel for the Appellants: SRI MOHAMMED IMRAN KHAN,**
**ADDL ADVOCATE GENERAL**

**Counsel for the Respondents No.1&2 : SRI B.MAYUR REDDY, Sr.Counsel,**
**rep., BUCHI REDDY CHIMPULA**

**The Court made the following: JUDGMENT**

**THE HON'BLE THE ACTING CHIEF JUSTICE SUJOY PAUL**

**AND**

**THE HON'BLE SMT. JUSTICE RENUKA YARA**

**WRIT APPEAL No.1638 of 2017**

**JUDGMENT:** *(Per the Hon'ble the Acting Chief Justice Sujoy Paul)*

Sri Mohammed Imran Khan, learned Additional Advocate General, for the appellants; and Sri B.Mayur Reddy, learned Senior Counsel, representing Sri Buchi Reddy Chimpula, learned counsel for respondents No.1 and 2.

2. This intra court appeal takes exception to the order dated 05.07.2017 passed in W.P.No.7116 of 2017.

**BRIEF FACTS OF THE CASE:**

3. Shorn of unnecessary details, the relevant facts are that the Government issued G.O.Ms.No.255, dated 02.08.2001, providing apportionment/ratio of seigniorage fee for Gram Panchayats, Mandal Parishads and Zilla Parishads. The previous percentage prescribed vide G.O.Ms.No.335, dated 06.08.1996, stood modified.

4. Respondent No.2 (writ petitioner No.2) obtained information under the Right to Information Act, 2005, that during the period between 2006 and August, 2016, the seigniorage fee collected for mining done in Hyderabad and Tandur (erstwhile Ranga Reddy District) amounted to Rs.572,54,98,080/- (Rupees Five Hundred and Seventy Two Crores, Fifty Four Lakhs, Ninety Eight Thousand and Eighty only). Respondents No.1 and 2 (hereinafter referred to as, "the writ petitioners") submitted that from the seigniorage fee collected, only Rs.9,14,02,900/- was given to the Gram Panchayats, Rs.18,17,80,900/- was given to Mandal Parishads and Rs.12,33,06,150/- was given to Zilla Parishads altogether totaling to Rs.39,64,17,950/- out of Rs.572,54,98,080/-.

5. The writ petitioners (wife and husband), claiming themselves as ZPTC Member, Chevella Mandal, and President, Telangana Panchayat Raj Chamber, filed W.P.No.7116 of 2017 challenging the inaction of the appellants herein, who were respondents No.2 to 6 in the writ petition, in distributing the seigniorage fee collected from the mining activities done in the erstwhile Ranga Reddy District between the period 2006 and August, 2016. It is pointed out that Ranga Reddy District was later bifurcated into

three districts, namely Ranga Reddy, Vikarabad and Medchal. The writ petitioners prayed for a proportional distribution of the collected seigniorage fee to these newly formed districts as per G.O.Ms.No.255, dated 02.08.2001.

6. The learned Single Judge allowed the writ petition and opined that the writ petitioners are persons interested in a community property or a common property in a representative capacity and further directed the appellants to release the seigniorage fee proportionately to the said Gram Panchayat, Mandal Parishad and Zilla Parishad within stipulated time.

**CONTENTION OF THE APPELLANTS:**

7. Learned Additional Advocate General appearing for the appellants assailed the impugned order of the learned Single Judge by contending that before the writ Court, the State could not get proper and effective opportunity to defend itself. He submits that formal notices were never issued in W.P.No.7116 of 2017. In motion hearing itself on 21.06.2017, the matter was heard in part and thereafter, counter was directed to be filed.

Before the counter could be filed, the matter was allowed on 05.07.2017. The right to file the counter was never closed. The matter was never posted under the caption "for final hearing". It was neither heard nor decided with the consent of the parties. Thus, the State may be permitted to file the counter and defend the matter effectively, more so, when huge financial liability is involved in the matter.

8. The next submission of the learned Additional Advocate General is by anticipating the argument of the learned counsel for the writ petitioners when the order of the learned Single Judge was not complied with and the contempt petition was filed in C.C.No.1048 of 2018, the learned Special Government Pleader made a statement on 30.11.2018 in the said contempt petition that the Government was going to implement the order within four weeks. It is submitted that such a concession/statement made by the learned Special Government Pleader without instructions does not operate as estoppel nor it binds his clients. In support of this submission, he placed reliance on the judgments of the Supreme Court in **Himalayan Cooperative Group Housing Society v.**

**Balwan Singh**[1] and **Director of Elementary Education, Odisha v. Pramod Kumar Sahoo**[2].

9. The *locus standi* of the writ petitioners was seriously called in question during the course of arguments. Learned Additional Advocate General submits that to maintain a regular writ petition under Article 226 of the Constitution of India, the minimum requirement was to establish that the writ petitioners are "persons aggrieved". No amount of necessary pleadings were made in the writ affidavit to show any such *locus standi* or highlight that the writ petitioners are "persons aggrieved". Thus, the writ petition itself was not maintainable. The writ petition of this kind, which may be of a nature of a public interest litigation, cannot be decided by the learned Single Judge. Reliance is placed on a Division Bench judgment of Bombay High Court in **Savlo Rama Porobo v. Union of India**[3]. In addition, he placed reliance on the judgment of the Supreme Court in **Union of India v. Mario Cabral E SA**[4] and the judgment of the Andhra Pradesh High Court

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[1] (2015) 7 SCC 373
[2] (2019) 10 SCC 674
[3] 1987 SCC OnLine Bom 410 : 1989 Mah LJ 527
[4] (1982) 3 SCC 262

in **Gram Panchayat, Maddur, Kakkipadu Mandal v. State of Andhra Pradesh**[5].

10. Lastly, learned Additional Advocate General submits that the writ petition filed by the writ petitioners was in the nature of interpleader suit, which could not have been entertained.

**CONTENTION OF THE WRIT PETITIONERS:**

11. Learned Senior Counsel for the writ petitioners opposed the prayer and contended that the writ Court has given full and proper opportunity to the State to file the counter. Reliance is placed on the order dated 21.06.2017 passed by the learned Single Judge. In addition, it is argued that after having given a conscious statement before the Bench dealing with C.C.No.1048 of 2018, the writ appeal has lost the significance and is liable to be dismissed on this score alone.

12. Learned Senior Counsel further submits that as per Rule 12 of the Writ Proceedings Rules, 1977, the opportunity provided to the State in writ proceedings must be treated to be an adequate opportunity. The writ appeal is continuation of the writ petition.

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[5] 1997 SCC OnLine AP 704 : 1997 (6) ALD 49

The writ petitioners are office bearers of the respective bodies and they had *locus standi.* The learned Single Judge has relied upon the previous orders in **Ghanpur Gram Panchayat v. Government of Andhra Pradesh** (W.P.Nos.20344 of 2010, dated 28.03.2011) and **Chundru Mangayamma v. Government of Andhra Pradesh** (W.P.No.18336 of 2010 dated 28.09.2010). The previous orders, in the absence of challenge, attained finality. Thus, no fault can be found in the impugned order. He placed reliance on the judgments of the Supreme Court in **Sarguja Transport Service v. State Transport Appellate Tribunal, M.P., Gwalior**[6] and **Kalyan Singh, London Trained Cutter, Johri Bazar, Jaipur v. Smt. Chhoti**[7]. Learned Senior Counsel reiterated that the opportunity given was sufficient. In support of his contentions, he also placed reliance on the judgment of the Supreme Court in **Hari Ram v. Jyoti Prasad**[8] and the judgment of the Rajasthan High Court in **Jagdish v. Aam Janta Pachala**[9].

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[6] (1987) 1 SCC 5
[7] (1990) 1 SCC 266
[8] (2011) 2 SCC 682
[9] 2014 SCC OnLine Raj 5997

13. The learned counsel for the parties have confined their arguments to the extent indicated above and no other point is pressed.

14. We have heard the learned counsel for the parties at length and perused the record.

**FINDINGS:**

15. In the fitness of things, we deem it proper to first deal with the contention of the learned Additional Advocate General appearing for the appellants which goes to the root of the matter.

16. The question is whether the learned Single Judge has given adequate opportunity to the State to file the counter and whether the proceedings of the learned Single Judge show any procedural impropriety. It is apt to reproduce the entire proceeding sheet in the writ petition, which reads thus:

"**HIGH COURT OF JUDICATURE : HYDERABAD**

MAIN CASE NO: **W.P.No.7116 of 2017**

**PROCEEDING SHEET**

| SL. NO. | DATE | ORDER | OFFICE NOTE |
|---|---|---|---|
| 1. | 01.03.2017 | **AVSS,J** | |

| | | | |
|---|---|---|---|
| | | None appears.<br>Post on 03/03/17 in the motion list.<br><br>B/o.<br>INL | |
| 2. | 3.3.2017 | **AVSS,J**<br><br>Post next week in the adjourned motion list.<br><br>B/o.____ | |
| 3. | 13/03/2017 | **AVSS,J**<br><br>Post after ten days.<br><br>B/o.<br>GRK | |
| 32. | 19.06.2017 | **Dr.SSRB, J**<br><br>At request, post on 21.06.2017 in motion list.<br>In the meantime, learned Government Pleader for Panchayat Raj to get instructions.<br><br>B/o.<br>SK | |
| 33. | 21.06.2017 | **Dr.SSRB, J**<br><br>**Heard-in-part.**<br>Post on 04-07-2017 in motion list for continuation of further hearing **and counter** under the caption 'for orders'.<br><br>Sd/- | |
| 6. | 04/07/2017 | **Dr.SSRB, J**<br><br>At request, post on 05/07/2017 | |

| | | | |
|---|---|---|---|
| | | in motion list under the same caption.<br>Sd/- | |
| 7. | 5/7/17 | **Dr.SSRB, J**<br><br>Writ Petition is allowed.<br>(vide separate order)<br><br>B/o.<br>SS" | |

17. The minute reading of the aforesaid proceeding sheet shows that on the first date nobody entered appearance for the parties. Then the matter was posted twice i.e., on 03.03.2017 and 13.03.2017. Thereafter, the matter was taken up on 19.06.2017. On this date, the matter was directed to be posted on 21.06.2017 in "motion list'. In the meantime, the learned Government Pleader for Panchayat Raj was directed to obtain instructions. Pausing here for a moment, it is clear that no formal notices have been issued to the State to file the counter. On 21.06.2017, the matter was 'heard in part'. No finding is recorded whether the State could obtain instructions or not. It is also not recorded that the matter was "heard in part" and "with consent". Curiously, while declaring the matter as "heard in part", the counter was directed to be filed. In our opinion, the counter needs to be filed first and

thereafter only the matter could be finally heard 'in part' or 'in full'. Putting it differently, if without counter and without instructions, the Court intended to decide the matter, it may either close the right to file the counter after giving sufficient opportunity and then hear the matter finally or alternatively hear the matter 'with the consent' without counter and instructions. Interestingly, the orders dated 21.06.2017 and 04.07.2017 do not reflect that any such procedure was followed. On 04.07.2017, the matter was directed to be listed on 05.07.2017 and on that date, the writ petition was allowed. Thus, it is clear as cloudless sky that i) notices were never issued to the State for filing counter; ii) the Court never closed the right of the State to file the counter or obtain instructions; iii) the matter was never heard with the consent of the parties; iv) the matter was first 'part heard' on 21.06.2017 without recording any consent and then a direction was issued for filing the counter and v) the order dated 05.07.2017 also does not reflect that the matter was heard 'with consent' and the writ petition was allowed on the same date.

18. The aforesaid events show that there exists a procedural flaw in the process. The right to file the counter is a valuable right of

defence for any party. The Apex Court in **State of Madhya Pradesh v. Bharat Singh Bhati**[10] opined as under:

> "6. Having heard the learned counsel for the parties and considering the fact that return was in fact not filed by the appellants, we are of the view that the High Court was not justified in allowing the writ application without affording any opportunity of filing return to the writ application filed by the respondents. In that view of the matter, we set aside all the orders passed by the learned Single Judge in the writ petition as well as in the review application and also the order passed in the writ appeal. The appellants shall file their return to the petition within six weeks from the date of supply of a copy of this order to the High Court and the High Court, thereafter, shall dispose of the writ application after giving hearing to the parties within a period of three months from the date of filing the return to the writ application by passing a reasoned and speaking order in accordance with law."
>
> (Emphasis Supplied)

19. In our opinion, the State was deprived of the adequate and effective opportunity to file the counter. The State, while filing the counter, could have made effort to distinguish the previous orders passed in W.P Nos.20344 and 18336 of 2010. In a matter of this nature, where huge financial liability may be fastened to the other side, Courts must be more cautious in following the principles of natural justice and providing adequate opportunity to the parties.

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[10] (2008) 11 SCC 668

20. Another question raised by the writ petitioners is about the order passed in C.C.No.1048 of 2018. We are in agreement with the argument of the learned Additional Advocate General that any such concession/statement given by the Special Government Pleader will not bind the State (See **Himalayan Cooperative Group Housing Society** (supra) and **Director of Elementary Education, Odisha** (supra)).

21. As discussed above, in the instant case, the learned Single Judge has erred in allowing the writ petition without granting adequate opportunity to file the counter. Thus, the order based on such improper proceedings cannot sustain judicial scrutiny. In this view of the matter, we are not inclined to deal with the other points raised by the learned counsel for the parties touching upon the merits, *locus standi* etc.

22. In the interest of justice, by following the decision of the Supreme Court in **Bharat Singh Bhati** (supra) we deem it proper to set aside the impugned order dated 05.07.2017 passed by the learned Single Judge in W.P.No.7116 of 2017 and restore the said writ petition to its original number. The State shall file its counter

within four weeks positively. The writ Court may hear the parties and decide the matter afresh. We order accordingly.

23. The writ appeal is accordingly **disposed of** without expressing any opinion on the merits of the matter. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

**SD/-I.NAGALAKSHMI**
**JOINT REGISTRAR**

**//TRUE COPY//**

**SECTION OFFICER**

**To,**

1. The Principal Secretary, Mines and Industries And Commerce Department, Secretariat, State of Telangana, Hyderabad.
2. The Assistant Director, Mines & Geology, Ranga Reddy District.
3. The Assistant Director, Mines & Geology, Vikarabad, Vikarabad District.
4. Two CCs to ADDL ADVOCATE GENERAL, High Court for the State of Telangana at Hyderabad. [OUT]
5. Two CCs to GP FOR MINES & GEOLOGY, High Court for the State of Telangana at Hyderabad. [OUT]
6. One CC to SRI BUCHI REDDY CHIMPULA, Advocate. [OPUC]
7. Two CD Copies.

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**HIGH COURT**

**DATED:24/03/2025**




**JUDGMENT**

**WA.No.1638 of 2017**

**DISPOSING OF THE WRIT APPEAL WITHOUT COSTS**

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