

**IN THE HIGH COURT OF ANDHRA PRADESH**

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**W.P.No.9906 of 2021**

Between:

- # 1. Narni narayana Rao, S/o. Narasanna, R/o. D.No.6-6-13/5,  
Bendamurulanka Village, Allavaram Mandal, East Godavari District.  
2. Kotikalapudi Pandu Ranga Rao, S/o. Krishna Murthy, R/o. D.No.1-2/2,  
Main Road, Bendamurulanka Village, Allavaram Mandal, East  
Godavari District.

... Petitioners

AND

- \$ 1. The State of Andhra Pradesh, rep. by its Principal Secretary,  
Panchayat Raj & Rural Development Department, Secretariat  
Buildings, Velagapudi, Guntur District.  
2. The District Collector, East Godavari District, Kakinada.  
3. District Panchayat Officer, East Godavari District, Kakinada.  
4. The Tahsildar, Allavaram Mandal, East Godavari District.  
5. The Bendamurulanka Gram Panchayat, rep. by its Secretary,  
Benamurulanka Village, Allavaram Mandal, East Goadavari District.  
6. The Superintendent of Police, East Godavari District.  
7. The Station House Officer, Allavaram Police Station, Allavaram  
Mondal, East Godavari District.  
8. Nagabathula Anand Kumar @ Anand Paul, R/o. Main Road, near  
Kanaka Durga Temple, Bendamurulanka Village, Allavaram Mandal,  
East Godavari District.

Respondents

**Date of Judgment pronounced on : 22.04.2022**

**HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO**

1. Whether Reporters of Local newspapers : Yes/No  
May be allowed to see the judgments?
2. Whether the copies of judgment may be marked : Yes/No  
to Law Reporters/Journals:
3. Whether The Lordship wishes to see the fair copy : Yes/No  
Of the Judgment?

**\*IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI****\*HONOURABLE SRI JUSTICE R. RAGHUNANDAN RAO****+ W.P.No.9906 of 2021****% Dated:22.04.2022**

Between:

- # 1. Narni narayana Rao, S/o. Narasanna, R/o. D.No.6-6-13/5,  
Bendamurulanka Village, Allavaram Mandal, East Godavari District.  
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Main Road, Bendamurulanka Village, Allavaram Mandal, East  
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Kanaka Durga Temple, Bendamurulanka Village, Allavaram Mandal,  
East Godavari District.

Respondents

- ! Counsel for Petitioners : Sri K.S. Murthy  
^Counsel for Respondent No.2 : G.P. for Panchayat Raj  
^Counsel for Respondent No.5 : Sri Koti Reddy Idamakanti

&lt;GIST:

&gt;HEAD NOTE:

? Cases referred:

**HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO****W.P.No.9906 of 2021****ORDER:**

The petitioners are residents of Bendamurulanka Village, Allavaram Mandal, East Godavari District.

2. It is the case of the petitioners that the 8<sup>th</sup> respondent, who had purchased house bearing D.No.6-13/1 in Sy.No.181/1 of the Gram Panchayat, had converted the said house into a Church in the name of 'Shalom Prayer House', without obtaining any permission from the competent authorities and has been conducting prayer services in the said Church by using loudspeakers. The petitioners contend that the said activities of the 8<sup>th</sup> respondent are illegal on various grounds. Firstly, the 8<sup>th</sup> respondent is required to obtain necessary permission under Rule 26 of the A.P. Gram Panchayat Land Development (Layout and Building) Rules 2002, (for short 'the layout and building Rules'), which requires prior approval of the Collector of the District for construction of any building intended for public worship or religious purposes. Secondly, usage of the loudspeakers through out the day violates Rule-5 of the Noise Pollution (Control and Regulation) Rules, 2000 (for short 'the Noise Pollution Rules') as well as the guidelines issued by the Government of A.P. vide G.O.Ms.No.172, dated 12.10.2010.

3. The petitioners are said to have approached various authorities complaining about the activities of the 8<sup>th</sup> respondent. However, no action has been taken against 8<sup>th</sup> respondent due to which the petitioners have approached this Court by way of the present writ petition.

4. The petitioners also submit that the 5<sup>th</sup> respondent-Gram Panchayat, in reply to an application made under Right To Information Act, had certified that the 8<sup>th</sup> respondent had not obtained any permission for construction of a Church. The petitioners seek a writ of Mandamus declaring the inaction of the respondent authorities in taking steps against the 8<sup>th</sup> respondent for violation of Rule 26 of the Layout and Building Rules as well as Noise Pollution Rules and G.Os. issued from time to time.

5. A counter affidavit has been filed on behalf of the 5<sup>th</sup> respondent-Gram Panchayat. In this counter affidavit, it is stated that the Gram Panchayat had received a complaint, dated 25.03.2021, relating to the conversion of the residential house into a Church and the causing of sound pollution. Thereafter, the Panchayat Secretary is said to have conducted an enquiry during which it came to the light that the 8<sup>th</sup> respondent did not possess any permission to run the Church, and a notice dated 26.03.2021 was issued to the 8<sup>th</sup> respondent to give his explanation before any further action was taken. However, the 8<sup>th</sup> respondent, who appears to have stopped conducting prayers in the building, did not submit any explanation nor removed the board put up in front of his house stating that his house is a prayer house.

6. The 8<sup>th</sup> Respondent had filed a counter affidavit stating that he is running a Non-governmental organisation under the name and style of "Shalom Prayer House" and the same is a registered society. He states that he is conducting prayers on every Sunday at 9.00 am. to 11.00 am., and every Friday at 8.00 pm. to 9.30 pm., as a Pastor. He states that the objects of the society, is to teach the word of the God for spiritual life and to provide medical and other assistance to needy persons. The 8<sup>th</sup> respondent, after denying the allegations made by the petitioners,

contends that the writ petition is not maintainable as the petitioners do not have any locus to file the present writ petition. The 8<sup>th</sup> respondent contends that the allegation that he had converted a residential house into a Church is false and baseless. The 8<sup>th</sup> respondent further states that he does not use mike or loudspeaker and that the allegations made in that regard by the petitioners are false. He relies upon a judgment of the Hon'ble High Court of Madras in W.P.No.2149 of 2018 and W.P.No.2675 of 2018 to contend that his activities are protected by the provisions of Part-III of the Constitution of India.

7. The 2<sup>nd</sup> respondent-District Collector also filed a counter affidavit. In this counter affidavit, it is stated that no permission had been obtained by the 8<sup>th</sup> respondent for construction of a Church and relied upon the statements set out by the 5<sup>th</sup> respondent in his counter affidavit. It is also stated that the 5<sup>th</sup> respondent, who had initiated appropriate action against the 8<sup>th</sup> respondent, found that the premises has been used for religious purposes without obtaining permission from the District Collector in accordance with the Rules issued under G.O.Ms.No.67 as amended by G.O.Ms.No.376 dated 29.11.2012.

8. Heard Sri K.S.Murthy, learned counsel appearing for the petitioners, learned Government Pleader appearing for the 2<sup>nd</sup> respondent, Sri Koti Reddy Idamakanti, learned Standing Counsel appearing for the 5<sup>th</sup> respondent and Sri Boda Rakesh Naik, learned counsel appearing for the 8<sup>th</sup> respondent.

9. Every citizen is entitled for protection of his fundamental rights enumerated in Part-III of the Constitution of India. Article 25 of the Constitution protects the rights of all persons to freedom of conscience and the right to freely profess and protect religion. However, this right is

subject to public order, morality and health and to the other provisions of Part-III of the Constitution. This would mean that the right of professing any religion is circumscribed by the need to maintain public order and to ensure that exercise of such a right does not affect the health or the moral standards of the society.

10. The Government had initially issued G.O.Ms.No.67 prescribing Rules for making layouts for constructing any buildings in villages and Gram Panchayats. Subsequently, G.O.Ms.No.376 dated 29.11.2012, amended G.O.Ms. No. 67, by introducing Rule 26(4), which reads as follows:

“No site shall be used for construction of the building intended for public worship (or) religious purposes without the prior approval of the Collector of the District”.

11. This rule has apparently been introduced to ensure that unregulated construction of buildings of public worship does not lead to any problems of public order or breakdown of public order.

12. It is the admitted case of the 8<sup>th</sup> respondent that prayers are being conducted for the general public in the house of the 8<sup>th</sup> respondent. In such a situation, the said house of the 8<sup>th</sup> respondent would have to be treated as a place of public worship. Rule 26(4) of the layout and building Rules requires that no such buildings of public worship can be constructed without obtaining necessary permission from the District Collector. It is the contention of all the official respondents that no such permission has been taken by the 8<sup>th</sup> respondent. Even the 8<sup>th</sup> respondent does not deny or dispute this fact.

13. In the circumstances, it must be held that the conduct of any prayers involving members of the public cannot be held in the house

of the 8<sup>th</sup> respondent until and unless appropriate permissions are obtained from the District Collector.

14. As far as the use of loudspeakers is concerned, G.O.Ms.No.172 dated 12.10.2010 issued by the Government of A.P., shall be applicable. Clause-3 stipulates that noise beyond 55 decibels during day time and 45 decibels during night time is not permissible in a residential area. Further Clauses-4 & 5 stipulate that the noise levels in any area/zone cannot exceed the ambient air quality standard as specified in the schedule. Volume of public loudspeakers etc., emitting noise or any activity cannot exceed the noise limit by more than 10 decibels of the prescribed standard. This would again mean that the noise levels in a residential area cannot exceed 65 decibels by any standard. These requirements are to be enforced by the authority, which would be the Superintendent of Police in the Districts.

15. In the present case, both the 2<sup>nd</sup> and 5<sup>th</sup> respondents have contended that the 8<sup>th</sup> respondent is not conducting any public worship in his house as prayers had been stopped.

16. In these circumstances, and in view of the above provisions of the Rules, it would be appropriate to dispose of this writ petition with a direction to the 2<sup>nd</sup> and 5<sup>th</sup> respondents not to permit or allow the 8<sup>th</sup> respondent to conduct any acts of public worship in his house situated in D.No.6-13/1 of Bendamurlanka Village, Allavaram Mandal, East Godavari District, unless and until appropriate permissions are granted under Rule 26 of the layout and building Rules.

17. As far as usage of loudspeakers is concerned, it would be open to the petitioners to file appropriate applications before the Superintendent of police of the District and also to the 5<sup>th</sup> respondent for

taking action against the 8<sup>th</sup> respondent in the event of any usage of loudspeakers causing noise pollution above the limits prescribed in G.O.Ms.No.172 dated 12.10.2010. However, any action that may be contemplated against the 8<sup>th</sup> respondent on the basis of any such complaints or representations, shall be taken only after issuing notice and giving due opportunity of hearing to the 8<sup>th</sup> respondent.

18. Accordingly, the writ petition is disposed of. There shall be no order as to costs. As a sequel, pending miscellaneous petitions, if any, shall stand closed.

\_\_\_\_\_ April, 2022  
Js.

**R. RAGHUNANDAN RAO, J.**

**HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO**

**W.P.No.9906 of 2021**

**Js.**

\_\_\_\_\_ **April, 2022**