

entertaining the application or taking cognizance the land grabbing.

It is submitted that after the Act came into existence a number of cases were filed before the STs and decided. The High Court has decided several cases without giving importance or considering the report of MRO as mandatory. According to the language used in Rules 6 and 7 the report of MRO is a guidance for the ST. Hence it is a requirement of the Tribunal. If such a report is not available it is open to the ST to call for it at any time and take cognizance of the case without closing it or dismissing. It need not be cosigned records statistical purpose subject to revival. If the ST is satisfied with averments in the application and other documents *etc* the ST has to give weight, call for the report and issue notification. In fact the Full Bench has not rested its conclusions

on the basis of the report. But the Bench considered the facts of the case and found that it is a case without legs. It is always open to the ST to call for the report and proceed further *i.e.*, issuance of notification and notices to the respondents. The omission to call for report is curable and not fatal. The act or omission of the Court shall prejudice no one (*Actus curiae neminem gravabit*). The Apex Court ruled in 1996 (4) C.C.C 27 (SC) that a substantive right should not be allowed to be defeated on account of a procedural irregularity which is curable. Rules 6 and 7 of the LG Act are of procedural requirement. In the light of the above discussion I am the humble opinion that the Full Bench decision deserve reconsideration by way of review or otherwise since land grabbers should not be allowed to take advantage of procedural lapses and make unjust enrichment.

SPEECH BY SRI B. PURUSHOTHAMA REDDY, PRESIDENT, A.P. HIGH COURT ADVOCATES' ASSOCIATION DURING THE VISIT OF HIS EXCELLENCY Dr. A.P.J. ABDUL KALAM JI, PRESIDENT OF INDIA TO THE HIGH COURT OF ANDHRA PRADESH

His Excellency the President of India Dr. *A.P.J. Abdul Kalam Ji*, His Excellency the Governor of Andhra Pradesh Sri *Sushil Kumar Shinde Ji*, Hon'ble Chief Minister of Andhra Pradesh Dr. *Y.S. Rajashekar Reddy garu*, Hon'ble Chief Justice of A.P. High Court Sri *G.S. Singhvi Ji*, Hon'ble Justice Sri *Bilal Nazki Ji*, Hon'ble Minister for Law Sri *Konathala Ramakrishna garu*, Hon'ble Judges of the High Court, Hon'ble former Judges of the Supreme Court and Hon'ble former Judges of the High Court, my brother Advocates, ladies and gentlemen.

Today is a memorable day in the annals of the History of the High Court of Andhra Pradesh. We are celebrating the Golden Jubilee of our High Court and it is

gratifying that His Excellency the President of India Dr. *A.P.J. Abdul Kalam Ji*, an epitome of values in life has graced the occasion. His presence will be a source of inspiration and an occasion for emulation for all of us.

I do not intend to stand in the way of the esteemed audience and His Excellency the President of India. I would only emphasize the importance of the occasion in a few sentences. The High Court of Andhra Pradesh has a glorious History of its own. We find many instances across the country where institutions have been bifurcated and parts have become units. In our case it is the other way. Two full fledged High Courts, the erstwhile High Court of Hyderabad and the Andhra High Court which

was functioning at Guntur, had merged and thus emerged the High Court of Andhra Pradesh symbolizing the spirit of unity swimming across the flow of divisions and bifurcations.

His Excellency the President of India never missed an occasion to emphasize the need to achieve excellence in any and every field. The excellence achieved in various fields may become relevant, for the sections of people associated with those fields. However, excellence in the fields of law, be it at the Bar or Bench, would virtually redefine the pattern of life in the society at large. This is particularly so, in a society, governed by rule of law and a country which has adopted a democratic form of Government. In this context we can proudly say that the High Court of Andhra Pradesh did not lag behind in its march towards excellence. It has a brilliant past which constitutes the strong foundation to travel into the future.

Under our constitution there is no separation of powers in a strict sense, similar to the one under the American Constitution. However, by and large, the fields of each of the important organs of the state namely, Executive, Legislature and Judiciary are easily discernable. The role of Judiciary is typical. Many a time its actions are prone to be mistaken to be encroachments into the fields of the other wings of the Government. If one makes a close and dispassionate analysis of the matter, the perception would be otherwise.

By and large the role of Judiciary is comparable to that of a referee. At a time when the match is being contested seriously, the decision of referee may change the course of the events. More often than not, it is his decision that would decide the out come of the match. But it would be far from truth to allege that the referee has participated in the game or marred the

chances of success of a team. The participating teams would acquire respectability, if only they in turn, cultivate the habit of respecting the decisions of the referee. It would be equally perilous for the players or the audience, if they expect the referee to be a spectator or accuse him of being overactive.

In this context, it is apt to remember what our beloved first President of India Dr. *Rajendra Prasad* said on 29th October, 1954 while laying the foundation stone for the Supreme Court of India. He said :

“As must be expected, that part of the constitution dealing with the fundamental rights has come up for discussion on numerous occasions and the Courts have not hesitated to give their decisions against the Government. There may have been occasions when some of such decisions have caused inconvenience or have even been instrumental in holding up matters considered as of supreme importance by the Government. But it must be said to the credit of all concerned that all such decisions have been accepted and given effect to.”

After fifty years if we analyze the words of Dr. *Babu Rajendra Prasad* we will find that the importance to emulate from his message has increased many a fold. If all the things go well we are going to have an excellent edifice in the immediate neighbourhood of the existing monument. What we must however remember is that in the context of adjudication of disputes a just, proper, equitable and respectable judgment even if rendered underneath a tree will be respected more than a substandard judgment, rendered in a building with state of art facilities. If the Indian Judiciary has assumed its prominence and respectability, it is due, mainly to the towering personalities who handled it whether as Judges or Advocates.

One may notice few instances where the Judiciary may appear to have crossed into

the territories of the other organs of the State. Even if that were to be true it was never on account of any intention on the part of the Judiciary to acquire to itself the powers which do not genuinely belong to it. In the ultimate analysis, even such rare instances have added to the Credibility of the concept of the rule of law at large and the institution of democracy. If more and more people are approaching the Courts claiming one relief or the other it is only a pointer to the reality that compared to the other organs of the State, judiciary has become easily accessible

and the hope of getting relief from it is relatively brighter.

It is for these reasons that the need to strengthen the judiciary has become more prominent. Let all of us rededicate ourselves to strengthen the judiciary and thereby the democracy of the country.

Thank you,

Thank you one and all.

Hyderabad.

Date 5-1-2006.

GOLDEN SERVICE OF THE HON'BLE HIGH COURT OF ANDHRA PRADESH TO THE CONSTITUTION

By

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The Hon'ble High Court of Andhra Pradesh after established its Court at Hyderabad as Andhra Pradesh High Court in 1956 has been rendering yeoman services to the Constitution during its Golden Jubilee Period by contributing enormously for the development of the Constitution.

The following few land mark citations which are some of the examples to show the same.

I. 1. Under Article 1(1) and Chapter XI of the Constitution where the disintegration of the state of Hyderabad and the validity of the State Reorganization Act are questioned in "*S. Srikishan v. The State of Andhra Pradesh*" reported in AIR 1957 AP 734, the Hon'ble High Court held by upholding the disintegration of the State of Hyderabad.

2. While deciding the question with regard to Local Government or Local Bodies whether they have any division of powers so

as to be a tier in the federal system by the Larger Bench of the Hon'ble High Court in "*Ranga Reddy District Sarpanches' Association and others v. Government of A.P. and others*" reported in 2004 (2) ALD 1, it was held that by introduction of 73rd and 74th amendments to the Constitution, the Local Bodies have not attained such a Constitutional status so as to attract the concept of federalism being the third tier apart from Union and States.

II. Under Articles 3, 4 and 368 of the Constitution and Andhra State Act, 1953 Section 53, the Hon'ble High Court while holding that the State Laws which were in force prior to formation of new States, the State Laws will be continued in force even after constituting separate States in "*Surya Rao v. Government of Andhra*" reported in ILR 1956 AP 448.

III. Under Article 12 of the Constitution of India the definition of the "State" has been defined as follows :