

(2) A second appeal shall lie from the decision of the gram panchayat passed in an appeal under sub-section (1) to such authority as may be prescribed whose decision thereon shall be final.

Comparison : This Section is analogous to Section 132 of Act 2 of 1964.

ANDHRA PRADESH GRAM PANCHAYAT (SECOND APPEAL)

RULES, 2000

[G.O.Ms.No. 139, Panchayat Raj & Rural Development (Rules),
dated 18th April, 2000]

In exercise of the powers conferred by sub-section (2) of Section 128 read with Section 268 of the Andhra Pradesh Panchayat Raj Act, 1994 (Act No. 13 of 1994) and in supersession of the Rules issued in G.O.Ms. No. 770, Panchayat Raj, dated the 21st July, 1964, the Governor of Andhra Pradesh hereby makes the following Rules relating to the authority to whom a second appeal shall lie from the decision of the Gram Panchayat.

RULES

1. Short title :- These Rules may be called the Andhra Pradesh Gram Panchayat (Second Appeal) Rules, 2000.

2. Definition :- In these Rules, unless the context otherwise requires "Act" means the Andhra Pradesh Panchayat Raj Act, 1994.

3. Second appeal :- A second appeal shall lie to the District Panchayat Officer over the decision of the Gram Panchayat passed in an appeal under sub-section (1) of Section 128 of the Act.

DECISIONS

No appeal before Gram Panchayat against order passed basing on Gram Panchayat resolution: Prima facie, if the order is passed by someone subordinate to the Gram Panchayat, appeal is provided under Section 128 of the A.P. Panchayat Raj Act and a second appeal against the appellate order is provided before the District Panchayat Officer. If the original order itself is based upon a resolution of the Gram Panchayat it is obvious no appeal can be filed before the Gram Panchayat and since there is no appeal in such a situation before the Gram Panchayat there is no occasion for a second appeal as provided under the said Section of the A.P. Panchayat Raj Act. Decision of the Division Bench reproduced in Para 4. *Aljapur Ganga Mohan v. District Panchayat Officer, Nizamabad, 2002 ALD (3) 163 (DB).*

Collector is not appellate authority: The District Collector is not the appellate authority under Section 128 of the Act. *Aljapur Ganga Mohan v. District Panchayat Officer, Nizamabad. 2002 (3) ALD 163 (DB).*

No appeal lies to Gram Panchayat against its own Order: The power to grant permission under clause (b) of sub-section (10) of Section 120 is vested in the Gram Panchayat. No appeal lies to the Gram Panchayat under Section 128 (1) against the order passed by the Executive Officer pursuant to the permission granted by the Gram Panchayat. Since the Act does not provide any legal remedies to the petitioners against the permission granted by the Gram Panchayat which is the substantive order, the writ petition filed by the petitioners under Article 226 of the Constitution has to be decided on merits. Appeal allowed. The order of the learned single Judge set aside. Writ Petition stands restored. *Vasam Kotaiah and others v. Rayavaram Gram Panchayat, S.Rayavaram Mandal, Vishakhapatnam District. 2002(5) ALD*