

**THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM**

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**WRIT PETITION No. 10219 of 2015**

**ORDER:**

Notice issued vide ROC.A/102/2015 dated 17.03.2015 by the 5<sup>th</sup> respondent-Tahsildar directing the petitioner to remit the amount of Rs.82,710/- is challenged in this writ petition. By way of the said notice, the 5<sup>th</sup> respondent alleges that the petitioner is, in fact, a large size cultivator, whereas she fraudulently obtained a small size cultivator certificate and got undue benefit under the Mahatma Gandhi National Rural Employment Guarantee Scheme ('Scheme', for short) to the tune of Rs.82,710/-, and hence directed the petitioner to remit the said amount to the Government, else appropriate legal action would be initiated.

2. Heard both the counsels and perused the record.

3. Learned counsel for the petitioner submits that the Tahsildar is not an authorised person to issue such a notice, and the District Collector is the only person authorised under Section 5 read with Section 52(b) of the Revenue Recovery Act. The petitioner's counsel also raises several objections, mainly on technical grounds.

4. On the other hand, the learned Assistant Government Pleader submits that the impugned notice is only a show cause notice and the petitioner can file her objections which are sought to be raised before this Court, including that of lack of authorisation from the District Collector.

5. The record placed before this Court indicates that the Project Director, District Water Management Society, Chittoor, by his proceedings dated 10.12.2014 gave a finding to the effect that the petitioner and her family held an extent of Ac.12-60 cents of land, and hence the petitioner is not entitled to avail the benefits under the Scheme, as such the impugned notice came to be passed after the proceedings of

the Project Director and after taking into consideration the explanation submitted by the petitioner. Further, in the proceedings dated 10.12.2014, the Project Director had, in fact, directed the petitioner to pay Rs.82,710/- with a caution that, if the amount is not paid, necessary steps will be taken under the A.P. Revenue Recovery Act. Obviously, as the petitioner did not respond to the proceedings dated 10.12.2014 issued by the Project Director, necessary steps for recovery of the amount was sought to be made and the impugned notice came to be issued by the Tahsildar. Whether there is an authorisation to the Tahsildar, either by way of a general or a special order from the District Collector, to issue the impugned notice, is an issue which can be dealt with by the Tahsildar when the petitioner raises such an objection before him. Prima facie, Sections 5 and 52(b) empower the District Collector to initiate action for recovery either by himself on his own accord, or by authorising any other officer.

6. In that view of the matter, interest of justice would be served if liberty is given to the petitioner to respond to the notice dated 17.03.2015 issued by the Tahsildar, and raise all the objections that are now sought to be raised before this Court, including that of lack of authorisation for issuance of such notice. Till such time, the Tahsildar considers such objections and passes necessary reasoned and speaking order dealing with the objections that may be raised by the petitioner, no coercive steps shall be taken by the respondent authorities for recovery of the amount of Rs.82,710/- from the petitioner.

7. Accordingly, the writ petition is disposed of. No order as to costs. Miscellaneous petitions, if any, pending in this writ petition, shall stand closed.

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**CHALLA KODANDA RAM, J**

10<sup>th</sup> April, 2015

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