

HONOURABLE SRI JUSTICE P. NAVEEN RAO

Writ Petition Nos.30986 and 31063 of 2014

COMMON ORDER :

In both the writ petitions, petitioners are elected as Sarpanches of respective villages. The petitioner in the first writ petition was elected as Sarpanch of Gangaram Grampanchayat and the petitioner in the second writ petition was elected as Sarpanch of Nandigam Grampanchayat in Srikakulam District.

2. On 23-09-2014, vide two separate orders, the powers to deal with financial matters of the respective Grampanchayats were suspended insofar as petitioners are concerned on the allegation that petitioners were indulging in misappropriation/misuse of Grampanchayat funds and the matter requires detailed enquiry. The said suspensions of cheque drawing powers were passed in exercise of powers under Rule 42(1) of A.P. Panchayat Raj Act. Challenging the said orders, these writ petitions are filed.

3. The learned counsel for the petitioners submits that vague allegations are made against them and there is no substance in the allegations made and only to harass and humiliate them, the suspensions were resorted to and so far, no notice is issued and no enquiry is conducted.

4. The learned Government Pleader raised the specific objection that petitioners have right of appeal under Sub-Rule 2 of Rule 42 before the District Collector and without availing the remedy of appeal, the writ petitions are not maintainable.

5. The learned counsel for petitioners submits that the order is

ex facie illegal and that there is no further progress in the enquiry and if the petitioners are directed to prefer appeals at this stage, grave prejudice would be caused to them. The learned counsel placed reliance on a decision of this Court in W.P.No.28711 of 2011, dated 23-07-2015, wherein, this Court, having regard to the inordinate delay in conducting enquiry for the financial irregularities, set aside the order of suspension of cheque drawing power.

6. This Court in W.P.No.28711 of 2014 at para No.4 held as under :

4. Against order of suspension of cheque power, right of appeal is provided in Sub-rule 2 of Rule 41(2) G.O.Ms.No.30, Panchayat Raj, Rural Development and Relief, dated 20.01.1995, and without availing the same, this writ petition is filed. Ordinarily, the writ Court does not entertain the writ petition, if petitioner has an effective and efficacious remedy in the form of appeal created by statute, but having regard to the fact that even though an order of suspending power to withdraw Gram Panchayat funds was passed on 11.09.2014, there is no progress in conducting of enquiry as required. In the facts of this case, this Court is not inclined to relegate petitioner to prefer appeal at this stage. It is seen that even if enquiry is conducted and final orders are passed, the cheque power can be withdrawn for a specified period. Therefore, in the guise of pending enquiry, if an order

is passed withdrawing the cheque power, such withdrawal cannot be for unspecified period and for no justifiable reason, the said enquiry can be kept pending for such a long time. The very action defeats the object of the Panchayat Raj Act, 1994, and the various provisions of the Panchayat Raj Act, 1994, dealing with powers and responsibilities exercisable by various authorities. Thus, there is no justification to keep the power to withdraw the funds of Gram Panchayat by Sarpanch for such a long time.

7. The instant cases are worse than the above case. In the instant cases, there is no mention of amount of misappropriation alleged and no show cause notices were issued to them and except placing the cheque drawing powers of the petitioners under suspension, there is no further progress. Even though remedy of appeal is available to petitioners, I am not inclined to relegate petitioners to avail remedy of appeal at this stage. Continuation of order of suspension of money drawing power is patently illegal. Thus, and following the reasons assigned in W.P.No.28711 of 2014, dated 23-07-2015, the orders impugned in these Writ Petitions are not sustainable.

8. Accordingly, Writ Petitions are allowed setting aside the impugned orders.

9. Consequently, Miscellaneous Petitions, if any, pending in these Writ Petitions, shall stand dismissed. There shall be no order as to costs in both the Writ Petitions.

P. NAVEEN RAO, J.

August 17, 2015.

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