

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH**

**THURSDAY, THE FIFTH DAY OF NOVEMBER TWO THOUSAND AND
FIFTEEN**

Present

HON'BLE SRI JUSTICE P.NAVEEN RAO

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WRIT PETITION No.36112 of 2015

Between:

Ch. Srinivasa Rao, S/o. Rama Rao,
Aged: 46 years, Junior Assistant,
Sri Venkateswara Swamy Temple,
Allipuram, Visakhapatnam,
R/o. D.No.2-23-6, Surya Nagar,
Visakhapatnam.

.. Petitioner

AND

The Assistant Commissioner,
Endowments Department,
Visakhapatnam & 2 others

.. Respondents

The Court made the following:

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HON'BLE SRI JUSTICE P.NAVEEN RAO

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ORDER:

The petitioner challenges the order of suspension from service passed by the Executive Officer, Sri Venkateswara Swamy Temple, Allipuram, Visakhapatnam (2nd respondent), vide proceedings, dated 09.07.2015.

2. In brief, the contention of the petitioner is that illegally and without following the due process, an order of dismissal from service was passed on 23.06.2015. The petitioner challenged the same before this Court in W.P.No.19530 of 2015. By order, dated 01.07.2015, the writ petition was allowed setting aside the order of dismissal granting liberty to the competent authority to initiate proceedings. Immediately thereafter, the impugned order is passed suspending the petitioner and also formulating the charge memo. Learned counsel for the petitioner submits that though without wasting much of time, suspension order is passed, so far, there is no progress in the

disciplinary proceedings. No enquiry officer is appointed. Though the petitioner has submitted his explanation on 24.07.2015, no further orders are passed. Learned counsel for the petitioner also contends that so far, subsistence allowance is not paid and such action of the respondent authorities is *ex facie* illegal.

3. Learned counsel for the petitioner also contended that the income of the 2nd respondent temple is less than Rs.10,00,000/- and, therefore, in terms of the provision contained in Section 37(1) of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987, the Executive Officer is not competent to suspend the petitioner. However, on account of the clarification given by the learned Standing Counsel that the income of the temple is more than Rs.10,00,000/-, learned counsel for the petitioner fairly submitted that the writ petition can be disposed of by fixing the time limit for completion of the disciplinary proceedings.

4. Learned Standing Counsel, on instructions, also submits that the subsistence allowance would be paid to the petitioner and disciplinary proceedings would be concluded if a reasonable time is granted to the respondent authorities.

5. It is not a case of arbitrary exercise of power. The disciplinary authority having noticed the illegalities/irregularities initiated disciplinary proceedings. It is competent to place an officer under suspension pending initiation and conclusion of the disciplinary proceedings. Therefore, resorting to suspension pending disciplinary proceedings cannot be said as amounting to improper exercise of power. Thus, I do not see any illegality or irregularity in suspending the petitioner. However, once an officer is suspended from service, he is entitled to receive subsistence allowance from the date of suspension and non-payment of subsistence allowance vitiates disciplinary proceedings. The suspension only disentitles a person from discharging the duties and responsibilities attached to the post in which he works, but the relationship between the master and servant continues. Suspension is resorted to only to

keep the employee away from the post and to avoid playing mischief while enquiry is in progress. During the period of suspension the subsistence allowance is paid to ensure that employee ekes out his living. Unless subsistence allowance is paid, disciplinary proceedings cannot be continued. Thus, the respondent authorities are directed to release the subsistence allowance payable to the petitioner within a period of one (1) week from the date of receipt of copy of this order and shall continue to pay till the disciplinary proceedings are concluded.

6. Having regard to the fact that the charge memo is issued on 09.07.2015 and explanation is already filed by the petitioner on 24.07.2015, the respondent authorities are directed to take steps to conclude the disciplinary proceedings, as expeditiously as possible, preferably within a period of two (2) months from the date of receipt of copy of this order. It is always open to the petitioner to raise all contentions as available to him, during the course of enquiry.

7. The Writ Petition is disposed of accordingly. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

P.NAVEEN RAO, J

Date: 5th November, 2015

Note: Issue C.C. by 09.11.2015.

(B/o.)

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HON'BLE SRI JUSTICE P.NAVEEN RAO

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WRIT PETITION No.36112 of 2015

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Date: 5th November, 2015

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