

THE HON'BLE SRI JUSTICE RAJA ELANGO

Writ Petition No.20933 of 2006

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ORDER :

This writ petition is filed seeking to issue a writ of *Mandamus* to declare the action of Respondent No.1 – District Collector, Nalgonda under Section 265 of A.P. Panchayat Raj Act, 1994, as illegal and arbitrary and consequently set aside the order of the Respondent No.1 vide No.1237/03-B1 (pancha), dated 31-07-2006.

2. The point raised by the learned counsel for the petitioner for consideration before the Court is that as per Section 265 of the A.P. Panchayat Raj Act, the Commissioner alone has the power to proceed against the Sarpanch or Upa-Sarpanch, whereas the order passed by the Collector is without any jurisdiction to pass such an order and the learned counsel for the petitioner also raised another ground that when the petitioner sought for some document, which is mentioned in the show cause notice, the same was not furnished to the petitioner herein and thereby prejudice is caused to the petitioner.

3. In contra, the learned counsel for the respondents submitted that the Commissioner has delegated the power to the Collector to proceed against the Sarpanch and it is

also further submitted that any order, passed invoking the provisions under Section 265 of the Act, is appealable to the Government within a period of 30 days.

4. Considering the rival submissions, this Court is of the view that the points raised by the learned counsel on behalf of the petitioner can be raised before the Government by filing an appeal under Section 265 (c) of Panchayat Raj Act. Even though the said provision mandates that an appeal should be filed within a period of thirty days, since the petitioner approached this forum and the matter has been pending, if any such appeal is filed by the petitioner, the authority concerned is directed to condone the delay in filing such an appeal and decide the issue on merits. The petitioner is directed to prefer the appeal, if so desires, within a period of 30 days from the date of receipt of a copy of the order.

5. Accordingly, the Writ Petition is disposed of. No order as to costs.

6. As a sequel, miscellaneous petitions pending, if any, in this Writ Petition are closed.

JUSTICE RAJA ELANGO

12th March, 2015

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