

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

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WRIT PETITION No.39200 of 2015

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DATED :02.12.2015

Between :

B. Ganganna S/o.Chenna Rayappa,
Aged 48 yrs, Occu : Field Assistant,
Thumakunta Gram Panchayati,
Kundurpi Mandal, Anantapuram District.

.. Petitioner

and

The State of Andhra Pradesh,
Rep., by its Principal Secretary,
Panchayat Raj Department,
Secretariat Buildings, Hyderabad & 3 others

.. Respondents

This court made the following :

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ORDER :

On the allegation of misappropriation of funds a show cause notice was issued to the petitioner on 27.12.2011, personal hearing was accorded on 09.01.2012 and thereafter on 11.08.2014 orders were passed by the Project Director, Anantapuram, Anantapuram District (3rd respondent) removing the petitioner from service as Field Assistant. The petitioner challenges the said order in this writ petition.

2. Learned counsel for the petitioner seeks to contend that impugned order is passed without giving due opportunity of hearing and if only an opportunity was afforded, petitioner would have explained to the 3rd respondent that he did not commit any illegality. Learned counsel further contended that the amounts as mentioned in the order were already deposited even before the order is passed and therefore, the allegation that the amounts were misappropriated is not correct.

3. As per the instructions learned Special counsel submits that as per the Human Resource Policy concerning the Field Assistants, against an order of the Project Director removing the Field Assistant from service an appeal shall lie to the District Collector. Petitioner has not availed the remedy of appeal and no reasons are assigned why the appeal is not filed.

4. It appears that some amounts were deposited just before the orders are passed in the year 2014. Whereas, *prima-facie* as seen from the proceedings dated 11.08.2014, the allegation relates to the period prior to the year 2009. Be that as it may, it is open to the petitioner to avail the remedy of appeal and raise all the contentions as sought to be urged in this writ petition. Whether proceedings were properly initiated by the 3rd respondent and whether petitioner was guilty of misappropriation or the amount quantified against the petitioner were actually been used by somebody else and remitted to the concerned account can as well be raised in the appeal. It is for the appellate authority to consider all the contentions. Since the petitioner has an effective and efficacious remedy of appeal this Court is not inclined to exercise power of Judicial review under Article 226 of the Constitution of India, even before right of appeal is exhausted.

5. Having regard to the above observations, the Writ Petition is dismissed with liberty to avail the remedy of appeal as available to the petitioner. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand dismissed.

_____ **P.NAVEEN RAO,J**

2nd December, 2015

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