

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

W.P.No. 3881 OF 2001

ORDER:

The Writ Petition is filed challenging the proceedings No. 2537/87/97 dated 15-02-2000 and G.O.Rt.No. 202 Housing (HB.I) Department dated 11-09-2000 issued by the 2nd respondent, whereby the petitioner, who was working as Assistant Engineer under the 2nd respondent, was awarded penalty of stoppage of one annual increment with cumulative effect.

The specific allegation made against the petitioner is that he collected Rs.18,464/- at A.P.H.B. Colony, Cuddapah and Rs.21,000/- at A.P.H.B. Colony, Porumamilla but the said amount was not credited to the account of the allottees. Therefore, an enquiry was ordered while placing the petitioner under suspension, served a charge sheet and called for an explanation from the petitioner. The petitioner submitted his explanation denying the alleged misappropriation of amount.

Having dissatisfied with the explanation of the petitioner, a regular departmental enquiry was ordered. The 1st respondent was appointed as an enquiry officer. After following necessary procedure, the 1st respondent found the petitioner guilty for misconduct. Upon receipt of the report, the 2nd respondent served copy of the report on the petitioner and called for his written explanation. In the written explanation, the petitioner contended that the proposed punishment is excessive; he did commit no mistake in discharging his duties; thereby, the finding of the enquiry officer is illegal and he, therefore, prayed to drop further proceedings.

Considering the written explanation of the petitioner, the 1st respondent imposed major penalty of stoppage of one annual increment with cumulative effect. The same is now under challenge on various grounds.

During hearing, learned counsel for the petitioner reiterated the grounds urged in the Writ Petition.

Per contra, learned counsel for the respondents would contend that Housing Board is not State machinery, it is a local authority and placed reliance on ***P.S.Kanaka Durga Vs. The Vice Chairman and Housing Commissioner and another***^[1] in support of his contention.

In view of the specific contention about maintainability of the Writ Petition, I find that it is appropriate to decide about maintainability by framing the following point for consideration:

"Whether the 2nd respondent is a local authority, if so, whether the present Writ Petition is maintainable or not?"

A Division Bench of this Court in ***P.S.Kanaka Durga*** (1st *supra*) held that Housing Board is only a local authority and, therefore, Writ Petition is not maintainable since it is not State within the definition of Article 12 of the Constitution of India. In view of the judgment of Division Bench of this Court, I have no other alternative except to agree with its finding. Hence, in view of the above finding, I find that Housing Board is not State within the definition of State under Article 12 of the Constitution of India and it is a local body against which Writ Petition is not maintainable under Article 226 of the Constitution of India. On this ground alone, the Writ Petition is liable to be dismissed.

Though learned counsel for the petitioner raised several contentions regarding punishment *etc.*, as the Writ Petition is not maintainable, I do not wish to express any opinion. However, liberty is given to the petitioner to approach appropriate authority or Tribunal for redressal of his grievance, if advised, subject to permissibility under law.

With the above observation, the Writ Petition is dismissed. Pending miscellaneous petitions, if any, in this Writ Petition shall stand dismissed in consequence. No order as to costs.

M.SATYANARAYANA

MURTHY, J.

Date: 04th December, 2015.

JSK

[\[1\]](#) W.P.No. 27530 OF 2008 & BATCH