

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.4166 OF 2015

ORDER :

This petition is filed for a writ of *Mandamus* declaring the action of the respondents in issuing show cause notice dated 22.11.2014 prohibiting the petitioner from drawing general funds, 13th finance commission funds, SFC and all other funds lodged in the sub-treasury, and concerned bank, on the ground that the petitioner has committed certain irregularities in the administration of the Gram Panchayat, Thimmapuram, Nuzendla Mandal, as illegal and arbitrary and for a consequential direction to set aside the same and direct the respondents to grant cheque power to the petitioner.

The case of the petitioner is that she was elected as 'Sarpanch' in the elections conducted to the gram panchayat, Thimmapuram and continuing as such without any complaint. While so, the 3rd respondent by exercising the power under Rule 41 of the Rules and Notifications issued under the A.P.Panchayat Raj Act, 1964 (for short '*the Act*'), issued impugned show cause notice dated 22.11.2014, to the petitioner to show cause as to why she should not be prohibited from drawing the moneys of Thimmapuram Gram Panchayat, within 15 days from the date of receipt of the notice and as an interim measure, he also prohibited the petitioner from drawing General Funds, 13th Finance Commission Funds, S.F.C. and all other funds lodged in the Sub-Treasury and the bank concerned, by exercising Rule 42(1) of the Rules and Notifications issued under the Act. In the impugned order, by exercising Rule 42(3) of the Rules and Notifications

issued under the said Act, the 3rd respondent appointed the Extension Officer (PR&RD), Nuzendla Mandal to operate the above said funds during the interim period i.e. upto finalization of enquiry against the petitioner by the Divisional Panchayat Officer, Narasaraopet. Thereafter, the petitioner submitted his explanation dated 15.12.2014 to the District Panchayat Officer, Guntur, through Divisional Panchayat Officer, Narasaraopet, but till today, no final orders are passed. Aggrieved by the action of the respondents in withdrawing the cheque power from the petitioner and conferring the same to the Extension Officer, present writ petition is filed.

Learned counsel for the petitioner submits that the petitioner has not withdrawn any amounts in excess of the resolution passed by the Gram Panchayat and the same fact was explained to the District Panchayat Officer who issued the impugned show cause notice, inspite of that the interim measure made withdrawing the cheque power of the petitioner, is not withdrawn nor any final orders are passed by the respondents.

On the other hand learned Assistant Government Pleader for Panchayat Raj submits that since petitioner himself admitted the alleged irregularity in the explanation, no relief can be granted. He also submits that on the ground of allegations regarding irregularities, as an interim measure, petitioner's cheque power was withdrawn and the same was conferred on the Extension Officer, as such no interference is called for.

Heard Sri Ravi Cheemalapati, learned Standing Counsel for 4th respondent.

Rule 42(1) of the Rules and Notifications issued under

Panchayat Raj Act, 1964 reads as follows;

42(1) The district Panchayat Officer concerned may, for sufficient reasons to be recorded in writing prohibit by an order any Sarpanch from drawing the moneys of the Gram Panchayat for such period as may be specified in such order.

Provided that no such order shall be passed unless opportunity of making representation has been given to the Sarpanch concerned.

Provided further that the District Panchayat Officer may issue an interim direction to the Sarpanch not to draw the moneys of the Gram Panchayat pending the exercise of his powers under this sub-rule.

Even according to Rule 42(1) of the Act, the competent authority has power to withdraw the cheque power only for a prescribed period. But, in the present case, the interim measure withdrawing the cheque power of the petitioner was issued on 22.11.2014, and though explanation is filed, no final orders are passed. The authorities under the guise of interim measure cannot continue the same for long period. In view of the same, since petitioner has already filed explanation and also filed resolutions made by the Gram Panchayat, in support of his contentions, the competent authority who issued show cause notice shall consider the same along with resolution and take action within 10 days from the date of receipt of a copy of this order. If for any reason the competent authority fails to take final decision within above period, the impugned notice dated 22.11.2014 to the extent of conferring cheque power on the Extension Officer and withdrawing cheque power of petitioner gets automatically suspended and petitioner will be entitled to exercise the cheque power till final orders are passed.

Accordingly, the writ petition is disposed of. No order as to

costs. As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

A.RAJASHEKER REDDY, J

25.02.2015
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