

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.36729 of 2015

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Date: 19.11.2015

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Between:

R.Venkata Ramana, s/o. Raghuramaiah,
Aged about 33 years, R/o H.No.2781,
Nageswar Nagar, Sullurpet, SPSR Nellore
District.

.....Petitioner

And

The State of Andhra Pradesh, rep.by its
Commissioner, Rural Development/
State Program Coordinator of National
Rural Employment Guarantee Scheme (NREGS),
Hyderabad and others.

.....Respondents

The Court made the following:

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ORDER:

Petitioner was working as Technical Assistant in the office of the Project Director, District Water Management Agency, Nellore (3rd respondent). On the allegation of misappropriation of funds, disciplinary proceedings are initiated, which resulted in passing of order of termination by the Project Director on 27.08.2015. Petitioner was also directed to pay an amount of Rs.1,92,309/-. Aggrieved thereby, this writ petition is filed.

2. According to the Circular instructions governing the conditions of service of Technical Assistants, against the decision of Project Director, an appeal lies to the District Collector and said appeal shall be filed within a period of 30 days. Without exhausting the remedy of appeal, petitioner filed this writ petition. No reasons are assigned in the writ petition for invoking the jurisdiction of this Court without availing remedy of appeal. On that ground, this writ petition is not maintainable. However, with reference to the recovery of the amount, the single Judge of this Court in W.P.No.22616 of 2010, dated 05.10.2010 issued series of directions as under:

(1) The competent disciplinary authority shall follow strictly the guidelines laid down in Circular No.143/SRDS/HR Manual/2009, dated 27.1.2010 and the rules laid down vide G.O.Ms.NO.98, Panchayat Raj and Rural Development (RD.II) Department, dated 09.03.2010, for the purpose of conducting enquiry, social audit etc;

(2) If a report of the Gram Panchayat is received by the disciplinary authority, a copy of the same shall be furnished to the delinquent Field Assistant/Technical Assistant and if any witnesses are mentioned therein, they shall be examined in the presence of such Field Assistant/Technical Assistant and they shall be permitted to cross-examine such witnesses;

(3) If action is based on a social audit, majority members of the Gram Panchayat and the delinquent Field Assistant/Technical Assistant must be invited to the Gram Sabha and, in their presence, Gram Sabha should be conducted;

(4) Any objections raised by the delinquent may be recorded by the Social Audit team and if action is based on MPDO's own inspection/verification and the inspection by any other functionaries like Assistant P.D. etc., the inspection report showing allegations against the delinquent shall be furnished to the delinquent Field Assistant/Technical Assistant and the delinquent should be allowed to file his/her objections, if any, and after filing the objections, the authorities are at liberty to take appropriate decision, as per law, and pass further orders, after giving show cause notice and personal hearing in the matter;

(5) The entire procedure must be completed within a period of 30 days as contemplated under the guidelines from the date of issuing initial show cause notice, enumerating the charges. In case of suspension of an employee, he/she is entitled for subsistence allowance only for thirty days and if there is any delay occurred in conducting the enquiry, it may be extended for another one month, but, in any case, the enquiry cannot be extended beyond the period of two months;

(6) In any case, if it is found that the delinquent has committed misappropriation, it is always open for the authorities, after passing the final orders, to recover the same, as per law;

(7) In all the cases where recovery is contemplated, a fresh enquiry shall be conducted and completed, as per the directions of this Court, as above, within a period of thirty days from the date of receipt of a copy of this order. If any separate recovery proceedings are issued in pursuance of the impugned proceedings herein, they shall stand stayed during the pendency of the fresh enquiry; and

(8) The exercise indicated above in respect of the petitioner shall be completed within a period of three months from the date of receipt of a copy of this order.

3. Having regard to the said decision of this Court, the writ petition is disposed of as under:

i) Petitioner is at liberty to file an appeal against the order of removal to the District Collector

ii) The respondent - Project Director is directed to conduct an enquiry in accordance with the directions issued by this Court in W.P.No.22616 of 2010 with reference to recovery and shall take further course of action on the issue of recovery only after the appeal is disposed of by the District Collector and appropriate orders are passed on conducting of enquiry.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed. No costs.

JUSTICE P.NAVEEN RAO

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