

HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No. 41126 of 2015

-

DATE: 30.12.2015

Between:

K Gangadhar S/o late Chinna
R/o H No. 10-13-08, Basawavari Street,
Vijayawada

.... Petitioner

And

Sri Durga malleswara Swamy Varla Devasthanam
Vijayawada
Rep by its Special Grade Deputy Collector and Executive Officer
And others

.... Respondents

This Court made the following :

HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No. 41126 of 2015

ORDER:

Heard the learned counsel for petitioner, learned standing counsel for second respondent and learned Government Pleader for Endowments. With the consent of counsel appearing for both sides, the writ petition is disposed of at the admission stage.

2. Petitioner was engaged as NMR on daily wage w.e.f. 15.7.2003 in Sri Durga malleswara Swamy Varla Devasthanam. By proceedings impugned in the writ petition dated 12.12.2015, his services were terminated.

3. Learned counsel for petitioner contends that the order of termination is not preceded by enquiry and by granting due opportunity. The order of termination attaches stigma as it is not a simple termination but termination on the ground of alleged misconduct. Learned counsel further submits that the order of termination is based on the orders of the Government dated 16.10.2015 and order of Commissioner dated 30.11.2015 and therefore there was no independent application of mind by the competent authority.

4. Learned standing counsel on instructions states that since the Government and the Commissioner has instructed the Executive Officer to terminate the services of the petitioner on the allegations of misappropriation of funds, the order of termination was passed.

5. Apparently, from the reading of the orders impugned and

as per the instructions furnished to the learned standing counsel, no enquiry was conducted. No prior opportunity was afforded to the petitioner against the allegations levelled in Government memo dated 16.10.2015 before terminating his services. The Government memo, alleges loss of revenue to a tune of Rs.8,95,516/- to temple funds. It appears an Enquiry Officer was appointed and Enquiry Officer submitted a report. It is specific case of the learned counsel for petitioner that he was not subjected to any enquiry and no written submission was given by him. This fact is not denied by the learned standing counsel. In fact the order of the Executive officer dated 12.12.2015 do not refer to any such enquiry conducted in the presence of petitioner. It only refers to the orders of the Government and Commissioner. There was no independent application of mind by the competent authority.

6. Since the order of termination is not simplicitor but having penal consequences and attaches stigma no such order could have been passed without following basic principles of *audi alteram partem* and on that ground alone order dated 12.12.2015 is liable to be set aside and accordingly set aside, leaving it open to the respondent authorities to take appropriate action as warranted by law. Further, it is open for the petitioner to raise all contentions as available to him in law, as and when such proceedings are initiated.

7. Accordingly, the writ petition is disposed of. No costs. Consequently, miscellaneous petitions, if any pending, stand closed.

P.NAVEEN RAO,J

DATE: 30.12.2015
TVK

HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No. 41126 of 2015

-

DATE: 30.12.2015

Tvk