

HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.31733 of 2015

Date: 30.09.2015

Between:

Smt. Gouri Vijaya, W/o G.Hanumantha Rao,
Aged 45 years, Occu: Sarpanch, Mydavolu
Gram Panchayat, R/o. Mydavolu Village,
Mydavolu Panchayat, Edlapadu Mandal,
Guntur District.

.... Petitioner

AND

The State of Andhra Pradesh, rep.by its Secretary,
Panchayat Raj Department, A.P.Secretariat,
Hyderabad and others.

.... Respondents

The Court made the following:

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ORDER:

Petitioner claims to be Sarpanch of Mydavolu Gram Panchayat, Edlapadu Mandal in

Guntur District. Alleging that petitioner committed serious illegalities in the administration of Gram Panchayat and it is undesirable to allow him to operate General Funds, S.F.C., 13th Finance Commission and other funds of the Panchayat, show cause notice dated 01.07.2015 was issued by the District Panchayat Officer, Guntur. While calling upon the petitioner to submit her explanation to the said show cause notice, the District Panchayat Officer has also passed interim order of withdrawing cheque drawing power of the petitioner.

2. In response to the said show cause notice, petitioner filed explanation on 15.07.2015 dealing with each of the items in the show cause notice.

3. Learned counsel for petitioner submits that so far, no final orders are passed even though it is almost three months from the date of issuance of the show cause notice. Aggrieved by the action of the District Panchayat Officer in withdrawing cheque drawing power, petitioner also filed appeal before the District Collector. The said appeal is also not disposed of and illegally and for no fault of the petitioner, the power exercisable by the Sarpanch dealing with finance of the Gram Panchayat are deprived, which goes to the route of the independence of the Gram Panchayat *per se*.

4. Learned Government Pleader submits that so far no final orders are passed as a consequence to the show cause notice dated 01.07.2015.

5. Rule 42 of the Rules notified in G.O.Ms.No.30, PR, RD & R, dated 20.01.1995, vests power in District Panchayat Officer to take action against the Sarpanch of the village on the allegation of irregularities committed by her. This Rule also vests power in the District Panchayat Officer to suspend the power of the Sarpanch to deal with the funds of Gram Panchayat pending enquiry. However, insofar as passing of final orders suspending power to withdraw the funds of Gram Panchayat by the Sarpanch is concerned, Rule mandates that such suspension should be for a specified period. When the substantive provision fixes specific period to suspend the cheque withdrawing power of the Sarpanch, by way of interlocutory order, such suspension cannot be for unspecified period. The very scheme of the Rules would

show that whenever an allegation is made against Sarpanch, proper enquiry has to be conducted within the time frame and appropriate action as warranted by law should be taken. Thus, withdrawing the cheque drawing power without specific time frame and keeping the enquiry pending, more so when explanation was filed by the petitioner immediately after the notice was issued, is not justified and is contrary to the scheme and intendment of the Panchayat Raj Act and Rules made there under including Rule 42. I see no justification for keeping the enquiry pending for such a long time.

6. Having regard to the same, the District Panchayat Officer (3rd respondent) is directed to pass final orders by following due procedure as required as a consequence to the notice issued on 01.07.2015 as expeditiously as possible, preferably within a period of three weeks from the date of receipt of copy of this order. For any reason, which is not attributable to the petitioner, if the final orders are not passed within the time fixed above, the order of withdrawing cheque drawing power as contained in show cause notice dated 01.07.2015 stands set aside. The writ petition is disposed of accordingly. There shall be no order as to costs.

Miscellaneous petitions if any pending in the writ petition shall stand closed.

_____**JUSTICE P.NAVEEN RAO**

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