

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH**

WRIT PETITION No.22215 of 2015

Between:

Sanapati Venkata Ratnam,
S/o. Rama Murthy,
Aged about 36 years, Occ: Sarpanch,
R/o. Gurandrapalem (Vill.),
Narsipatnam Mandal,
Visakhapatnam District.

.. Petitioner

AND

State of Andhra Pradesh,
Rep. by its Principal Secretary,
Panchayat Raj & Rural Development,
Secretariat Buildings,
Hyderabad & 4 others

.. Respondents

DATE OF JUDGMENT PRONOUNCED: 17.07.2015

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

- | | | |
|---|--|--------|
| 1 | Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2 | Whether the copies of judgment may be marked to Law Reports/Journals | Yes/No |
| 3 | Whether His Lordship wish to see the fair copy of the Judgment? | Yes/No |

-

-

-

-

-

HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.22215 of 2015

-

ORDER:

The petitioner is a Sarpanch of Gurandrapalem Village, Narsipatnam Mandal, Visakhapatnam District. Notice, dated 16.03.2015, was served on him alleging that he has committed grave illegalities by issuing Birth and Death Certificates to the persons of his choice, whereas he is not competent to issue Birth and Death Certificates. The Panchayat Secretary is the Executive authority, who is alone competent to issue such certificates and no procedure was followed in issuing such certificates. The petitioner filed explanation to the said notice on 04.04.2015. As contended by the learned counsel for the petitioner, so far no further orders are passed. Challenging the said show cause notice, dated 15.03.2015, this writ petition is filed.

2. Learned counsel for the petitioner submits that the show cause notice is vitiated on account of not observing the procedure of Section 249(1) of the Andhra Pradesh Panchayat Raj Act, 1994 (for short, 'the Act') and not following the basic principles of reasonable opportunity. The show cause notice is apparently based on the report of the Divisional Panchayat Officer, Narsipatnam Division, Narsipatnam (4th respondent), dated 08.02.2015. The copy of the said report is not furnished. In the absence of supplying copy of the said report, it is impossible for the petitioner to effectively defend himself and if the petitioner has sufficient justification for taking such course of action, it cannot be said as *mala fide* or deliberate action

on his part, but in the peculiar facts of the case, he has to take such decision of granting Birth Certificates so that the village people do not suffer in receiving the benefits of Mid-Day Meal Scheme.

3. Learned Government Pleader submits that the power was validly exercised as vested in Section 249(1) of the Act and thus, there was no illegality in the initiation of proceedings for the removal of the Sarpanch. He further submits that there was no requirement of supplying the copy of the Divisional Panchayat Officer's report since it was only a report to enable the District Collector to take decision to initiate proceedings against a Sarpanch.

4. As seen from the provision in Section 249(1) of the Act, it envisages extreme course of removing the Sarpanch for acts of misconduct. This is an extraordinary power vested in the District Collector, which requires to be exercised cautiously and in exceptional circumstances where continuation of Sarpanch is not warranted on account of the grave illegalities committed by him/her. Thus, to initiate such process, it must precede with preliminary enquiry and only after the District Collector is convinced of *prima facie* grave nature of allegations, he can initiate penal action and it cannot be based on some preliminary exercise undertaken.

5. In the instant case, as it appears from the show cause notice, there was a report of the Divisional Panchayat Officer, Narsipatnam Division, Narsipatnam (4th respondent), dated 08.02.2015, in which he appears to have recorded some findings against the petitioner on the issue of Birth Certificates. Apparently, this report is not furnished to the petitioner.

6. The respondent District Collector ought to have enclosed a copy of the said report along with the show cause notice to enable the petitioner to submit an effective explanation. In the absence of the report of the Divisional Panchayat Officer, it would not be possible for the individual to submit an effective explanation as he is denied of the contents of the said report and the basis of such report. It is to be noted that the proceedings initiated against petitioner may result in his removal as Sarpanch. Such an order may result in severe civil and legal consequences. Thus, full gamut of opportunity of hearing must be afforded. Thus, the action of the District Collector is *ex facie* illegal.

7. The issue is no more *res integra*. The Division Bench of this Court considered the provisions of Section 249 of the Act in ***D. Sathi Reddy Vs. Commissioner, Panchayat Raj, A.P., Hyderabad and others***^[1]. This Court found illegality on the part of the competent authority in initiation of proceedings culminating in order of removal of Sarpanch without following the due process as envisaged in Section 249(1) of the Act. The Court also found fault with not supplying the relevant documents which are the basis for initiating action against the Sarpanch. On the issue insofar as the principal contention urged by petitioner is concerned, facts in this case are similar to the facts in the said writ petition. Thus, having regard to the provision contained in Section 249(1) of the Act and the principle laid down by this Court in ***D. Sathi Reddy's Case (supra)***, I am of the considered opinion that the action of the District Collector in not following the due procedure and not furnishing the copy of the report of the Divisional Panchayat Officer is erroneous.

8. However, since the issue is not finalized and no final

decision is taken, instead of setting aside the show cause notice, direction is issued to the District Collector, Panchayat Division, Visakhapatnam District (2nd respondent), to forthwith furnish a copy of the Divisional Panchayat Officer's report along with any enclosures that may have been included by the Divisional Panchayat Officer to his report. On receipt of the said report, it is open to the petitioner to submit supplemental explanation in addition to the explanation already submitted by him. The District Collector shall take further course of action only after supplying the copy of the Divisional Panchayat Officer's report, dated 08.02.2015, along with enclosures and after receiving further explanation by the petitioner.

9. Accordingly, the Writ Petition is disposed of. There shall be no order as to costs. Miscellaneous petitions, if any, pending in these writ petitions shall stand closed.

P.NAVEEN RAO, J

Date: 17th July, 2015

KL



HON'BLE SRI JUSTICE P.NAVEEN RAO

-
-
-
-
-
-
-
-
-
-

-
-
-
-
-
-
-
-
-
-
-
-
-
-
-

WRIT PETITION No.22215 of 2015

-

Date: 17th July, 2015

KL

[\[1\]](#) 1999 (5) ALD 681 (DB)