

THE HON'BLE SRI JUSTICE K.C. BHANU

AND

THE HON'BLE MRS JUSTICE ANIS

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WRIT PETITION No.14543 OF 2015

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ORDER: (per Hon'ble Sri Justice K.C.Bhanu)

This Writ Petition, under Article 226 of the Constitution of India, is filed to declare the order, dated 01.05.2015, in Original Application No.6982 of 2014 with VMA No.1525 of 2014 and CA 56 of 2015 passed by the Andhra Pradesh Administrative Tribunal, Hyderabad, as arbitrary and illegal and consequently, to direct the respondents to continue the petitioner at Dandagarra Gram Panchayat, Tadepalligudem Mandal, West Godavari District.

2. Petitioner herein/applicant filed the aforesaid Original Application questioning the impugned proceedings No.A3/3427/2014-14, dated 29.11.2014, issued by respondent No.4, whereby the petitioner was transferred and posted to Vinjaram Grade-IV Cluster Head quarter Gram Panchayat of Kukunoor Mandal, West Godavari District. The Tribunal, upon considering the material on record, dismissed the Original Application on the ground that as per the minutes of the meeting held in the chambers, the Collector himself delegated powers to transfer the petitioner.

3. Learned counsel for the petitioner contended that as the District Panchayat Officer has no jurisdiction to transfer the petitioner, the proceedings impugned in the Original Application lacks jurisdiction and hence, he prays to set aside the impugned order.

4. On the other hand, learned Government Pleader for Panchayat Raj and Rural Development (AP) appearing for respondent Nos.1 to 4 contended that as per

the minutes of the meeting held on 14.11.2014 in the chambers of the Collector, the District Panchayat Officer effected transfer of the petitioner; that the Tribunal after considering the material on record rightly dismissed the Original Application and that order needs no interference by this Court.

5. Heard both sides.

6. Transfer is an incidence of service. Ordinarily the Tribunal or the Court would not interfere with the order of transfer, unless the authority who issued transfer order lacks jurisdiction or mala fides are attributed to the authority, or it is against the Rules. Admittedly, in this case only the District Collector is competent to transfer the persons from one place to another place. But, contrary to the Rules, the District Panchayat Officer issued proceedings transferring the petitioner from Dandagarra Gram Panchayat, Tadepalligudem, West Godavari District to Vinjaram Grade-IV Cluster head quarter Gram Panchayat of Kukunoor Mandal, West Godavari District.

7. Learned Government Pleader for Panchayat Raj and Rural Development (AP) brought to the notice of this Court about Section 260 (1) of the Andhra Pradesh Panchayat Raj Manual, which reads as follows:

“Section 260. Delegation of powers, etc.: (1) The Government may, by notification authorize an officer or person to exercise any of the powers vested in them by this Act except the power to make rules; and may in like manner withdraw such authority.”

This section does not empower the District Collector to delegate his powers to the District Panchayat Officer. It is only the Government by Notification can appoint an authorized officer or person to effect transfer. No such Notification was issued by the Government authorizing the District Panchayat Officer to effect transfer of petitioner and no such Notification has been filed before the Tribunal.

8. **Rule 12 (3)** of the Andhra Pradesh Panchayat Raj Subordinate Service Rules reads as follows:

“The District Collector (Panchayat Wing) shall be competent authority to post and transfer Panchayat Secretary Grade III and IV within the district.”

In view of the above Rule, the authority who issued the proceedings under challenge before the Tribunal lacks jurisdiction. Hence, the impugned order is liable to be set aside.

9. Accordingly, the Writ Petition is allowed setting aside the order, dated 01.05.2015 in Original Application No.6982 of 2014 with VMA No.1525 of 2014 and CA 56 of 2015 passed by the Andhra Pradesh Administrative Tribunal, Hyderabad and consequently, the proceedings impugned in the Original Application are set aside. However, this order will not preclude the District Collector to effect transfer of writ petitioner in accordance with the Rules or Administrative instructions. There shall be no order as to costs.

10. Miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE K.C. BHANU

JUSTICE ANIS

JUNE 17, 2015

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THE HON'BLE SRI JUSTICE K.C.BHANU

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WRIT PETITION No.14543 OF 2015

DATE: 17.06.2015

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