

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 16665 of 2016

ORDER:

The Order dated 05.05.2016 modifying the cheque drawing power of the petitioner by including the signature of Extension Officer (PR & RD), Birkur, is challenged before this Court.

It is the contention of the learned counsel for the petitioner that the impugned order is liable to be set aside on the ground that in terms of the guidelines issued under Handbook for the training of the Sarpanches and Ward members by the Gram Panchayat Department it is the responsibility of the Panchayat Secretaries with respect to the maintenance of the accounts and various records and the petitioner being a Sarpanch cannot be made liable and no action can be taken against her. It is also the contention of the learned counsel for the petitioner that the order made by the 3rd respondent-District Panchayat Officer, Nizamabad, curtailing the Cheque power is without notice and calling for explanation.

On the other hand learned Government Pleader submits that the 3rd respondent-District Panchayat Officer does not have any powers of review and further submits that the impugned order is appealable to the District Collector in terms of Rule 42 (2) issued under G.O.Ms.No.30, dated 20.01.1995.

Having considered the rival submissions, as a matter fact based on the material placed on record it is clear that the petitioner was given notice on 05.05.2016 for which she also had submitted explanation on 13.05.2016. However, on the same date i.e., on 05.05.2016 the impugned order came to be passed. The impugned order, so far as relevant, reads as under:

“Therefore to avoid further abnormal / irregular

expenditure the cheque drawing powers of the Sarpanch, G.P. Ankole is hereby restricted and allowed to draw the funds with the counter signature of Extension Officer (PR&RD) Birkur until further orders.”

Though the learned Government Pleader for the respondents submits that the order dated 05.05.2016, which is impugned, is to be treated as a final order, this court is not inclined to accept the same for the reason firstly the same is made until further orders. Normally, the expression ‘until further orders’ is used pending passing further orders. Further, in the case on hand on 05.05.2016 a show cause notice has been issued to the petitioner calling for her explanation within 7 days as to why the cheque drawing power granted in favour of the petitioner should not be frozen? As a matter of fact, petitioner submitted her explanation on 13.05.2016 and no orders as such have been passed so far. If the impugned order dated 05.05.2016 has to be considered as a final order, there was no necessity for the District Panchayat Officer to have issued a show cause notice dated 05.05.2016 calling for explanation to be submitted by the petitioner within seven days. In that view of the matter, the argument of the learned Government Pleader cannot be accepted.

Though the learned counsel for the petitioner raised many grounds but he confined himself and challenged the impugned order based on non-consideration of the explanation submitted by the petitioner on 13.05.2016 pursuant to the notice issued to her on 05.05.2016. It is also the contention of the learned counsel for the petitioner that suspension pending enquiry cannot be for an indefinite period. Considering the fact that the suspension order was made on 05.05.2016, to which the petitioner had already submitted her explanation to the show cause notice, interest of justice would be served if a direction is issued to the 3rd respondent-District Panchayat Officer to pass appropriate orders pursuant to the show cause notice and the explanation submitted by the petitioner within a period of two

weeks from the date of receipt of the copy of this order.

Accordingly, the Writ Petition is disposed of with a direction the 3rd respondent-District Panchayat Officer to pass appropriate orders on the explanation dated 13.05.2016 submitted by the petitioner after giving the opportunity of hearing to her in terms of the Rule 42(1) of G.O.Ms.No.30, dated 20.01.1995, within a period of two weeks from the date of receipt of the copy of this order. There shall be no order as to costs.

Consequently, Miscellaneous Petitions pending, if any, in this Writ Petition shall stand closed.

CHALLA KODANDA RAM, J

Dated: 01.06.2016.

Note: Issue copy in three days.

B/o

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