

THE HON'BLE SRI JUSTICE CHALLA KODANDARAM

WRIT PETITION No.14706 of 2016

ORDER:

This writ petition is filed seeking writ of mandamus declaring the order in Order No.B5/170/2016(Pan), dated 13.04.2016 passed by the 3rd respondent as illegal, arbitrary, violation of principles of natural justice and violation of Article 14 of the Constitution of India and also contrary to the provisions of the A.P.Panchayat Raj Act, 1994 and the Rules made thereunder the consequently set aside the same, directing the respondents to restore the petitioner's cheque power.

2. The Order dated 13.4.2016 passed by the 3rd respondent is in exercise of Rule 42 (1) of the Rules notified in G.O.Ms.No.30, dated 20.01.1995, submitted before this Court on two grounds:

(1). that the petitioner is a non-speaking order in as much as explanation submitted by the petitioner with respect to the allegations in show cause notice dated 02.03.2016 are not considered and not even adverted to;

(2). the order dated 13.04.2016 is made in violation of mandate of specifying the period of suspension of the cheque drawn power as held by this Court reported in ***Somagani Venkata Subbamma v. District Panchayat***

Officer, Krishna District and another ^[1]

3. Considering the submission of the learned counsel for the petitioner as well as learned Government Pleader, the argument of the learned counsel for the petitioner be commands acceptance. In the impugned order dated 13.04.2016, respondent did not specify the period for which the cheque drawing power is suspended or withdrawn. In Rule 42(1), it is mandatory to specify the period of withdrawal of the cheque drawing power as the expression used is the District Panchayat Officer concerned may, for sufficient reasons to be recorded in writing, prohibit by an order any Sarpanch from drawing

the monies of the Gram panchayat for such period as may be specified in such order.

4. While considering Rule 42(1), this Court in ***Somaganí's*** case (stated supra), this Court held it as mandatory to specify the period of suspension and held the same cannot be indefinite. Further, the order also is not speaking order and it does not refer to explanation submitted by the petitioner. On both these grounds, this Writ Petition is deserves to be allowed.

5. Accordingly, this Writ Petition is allowed by setting aside the Order No.B5/170/2016(Pan), dated 13.04.2016 passed by the 3rd respondent. There shall be no order as to costs.

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

JUSTICE CHALLA KODANDA RAM

Date: 27-04-2016.

Gvl

[\[1\]](#) 2006 (4) ALD 1