

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.21416 of 2016

ORDER:

This Writ Petition has been filed seeking a *mandamus* to declare the Order dated 11.06.2016 of the 4th respondent-District Panchayat Officer, Machilipatnam, withdrawing the cheque power of the petitioner and entrusting the said power to the Extension Officer (PR&RD), Vissannapet, until further orders, as illegal and arbitrary.

The case of the petitioner is that pursuant to the notice dated 09.05.2016, a detailed explanation has been submitted to the 4th respondent on 08.06.2016, enclosing thereto the necessary documents. Despite the said fact, the impugned order has been passed by the 4th respondent without considering the material placed before him.

Learned counsel for the petitioner contends that Rule 42(1) of G.O.Ms.No. 30, dated 20.01.1995 mandates that prohibition to draw the moneys of the gram panchayat should be for such period, as may be specified in such order, but it cannot be for an indefinite period. Since, in the instant case, no such period was specified, the learned counsel seeks a direction to the 3rd respondent to conclude the inquiry and pass orders expeditiously, in terms of Rule 42. Learned counsel for the petitioner draws the attention of this Court to the Order dated 21.04.2016 in W.P.No.13858 of 2016 wherein this Court granted interim suspension of the order impugned.

A perusal of the impugned order dated 11.06.2016 substantiates the allegation of the petitioner that the material placed before the 4th respondent through letter dated 08.06.2016, which is running into 38 pages, was not considered. It is the duty cast on 4th respondent to consider the material, which has been placed by the petitioner along with the explanation and record a categorical finding with respect to the allegations made therein. Only then the said order would be an order under Rule 42 (2) of G.O.Ms.No.30, dated 20.01.1995.

Another technical defect in the impugned order is that the

prohibition to withdraw the cheque power cannot be for an indefinite period. Rule 42(1) itself mandates specifying a particular period for which the cheque withdrawal power can be made. In the present order, it does not specify for how long the cheque drawing power is withdrawn. In that view of the matter, the order dated 11.06.2016 is not sustainable to the extent of withdrawing the cheque drawing power of the petitioner.

In the circumstances, the order dated 11.06.2016 is set aside remanding the matter to 4th respondent to consider the material placed before the petitioner and give him an opportunity to make submissions with regard to the allegations and thereafter, pass appropriate orders in accordance with law. Since the allegations are with regard to misuse of funds, the entire exercise shall be completed within a period of four weeks from the date of receipt of a copy of order of this court.

Accordingly, this writ petition is allowed. There shall no order as to costs. Consequently, miscellaneous petitions pending, if any, shall also stand closed.

CHALLA KODANDA RAM, J.

Date:04.07.2016
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