

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

Writ Petition No.9364 of 2016

ORDER:

The order, dated 14-10-2015 issued by the 3rd Respondent is challenged before this Court.

The grievance of the petitioner is that on 14-10-2015 show cause notice was issued by the 2nd respondent to the petitioner in Notice No.547/2015-B5(Pan)-2, dated 14-10-2015 as to why a sum of Rs.2,91,534-00 should not be recovered from the petitioner and on the same day by letter No.B5/647/2015-(Pan)-1, dated 14-10-2015 the 3rd Respondent withdrew the cheque drawing power of the petitioner. The withdrawal of cheque drawing power by the 3rd Respondent is in violation of Rule 42(1) first proviso issued in G.O. Ms. No. 30 of Panchayat Raj, Rural Development and Relief, dated 20-1-1995.

Heard the learned counsel for the petitioner as well as

Sri G.Narender Reddy, the learned counsel appearing for the

4th Respondent and the learned Government Pleader for Panchayat Raj appearing for Respondent Nos.1 to 3.

Rule 42 of the Rules reads as follows :

“Rule 42 (1) The District Panchayat Officer concerned may, for sufficient reasons to be recorded in writing, prohibit by an order any Sarpanch from drawing the moneys of the Gram Panchayat for such period as may be specified in such order:

Provided that no such order shall be passed unless opportunity of making representation has been given to the Sarpanch concerned;

Provided further that the District Panchayat Officer may issue an interim direction to the Sarpanch not to draw the moneys of the Gram Panchayat pending the exercise of his powers under this sub-rule.

(2) Any Sarpanch aggrieved by an order passed by the District Panchayat Officer concerned under Sub-rule (1), may prefer an appeal in writing to the District Collector concerned within seven days of the receipt of the order and the decision of the District Collector thereon shall be final.

(3) Every order passed under Sub-rule (1) shall specify the name of the person or the authority who shall draw the moneys of the Gram Panchayat during the period during which the Sarpanch is prohibited from drawing such moneys.

(4) A copy of every order passed under Sub-rule (1) or Sub-rule (2) shall be communicated to all banks and treasuries in which the moneys of the Gram Panchayat are lodged.

(5) On and from the date of receipt of such order by any bank or treasury, no payment shall, for the period specified in such order, be made to the Sarpanch who is prohibited by such order from drawing the moneys of the Gram Panchayat.”

Rule 42 (1) first proviso makes it mandatory that before passing any order of withdrawing the cheque power, a notice ought to be given to the Sarpanch. In the present case, there is no reference of any notice having

been given. In that view of the matter, the contention of the learned counsel that it is only a temporary withdrawal of the cheque power cannot be accepted, as the notice by itself does not say so. Further, the same to be construed as a temporary suspension pending consideration of the explanation, as on date, no show cause notice as such also been given. For all these circumstances, the order, dated 14-10-2015 cannot be construed as a suspension of the cheque drawing power pending issuance of show cause notice and enquiry.

In that view of the matter, the letter, dated 14-10-2015 withdrawing the cheque power without specifying the time period and issued in violation of Rule 42 of the Rules cannot be sustained and accordingly the same is set aside. However, it shall not be construed as restraining the respondent-authorities to take any further action strictly in accordance with rules.

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

CHALLA KODANDA RAM, J

Dated: 04.04.2016.

Note : Issue C.C. in one week.

B/o
skmr