

THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.23590 of 2009

ORDER:

Heard Mr. J. M. Naidu for petitioner; Mr. M. Prabhakar Rao for the third respondent and learned Assistant Government Pleader for Panchayat Raj.

2. Petitioner challenges communication dated 26.10.2009 addressed by the District Collector to the Mandal Parishad Development Officer, Pamur Mandal, Prakasam District as illegal and violative of principles of natural justice and unconstitutional.

The impugned communication reads thus:

"Rc.No.D3/770/EGS/09, dated: 26.10.2009

Sub:- NREGS – AP – DWMA, Ongole – Pamur Mandal – Certain Irregularities in implementation of the NREGS Programme in Pamur Mandal – Misappropriation of funds – Removal of Field Assts., of East Kodigudlapadu, Gummalampadu and East Kattakindapalli Gram Panchayats –Regarding.

Ref: - 1) Report of the Quality Control Team dated: 08.10.09
2) Orders of the Collector & DPC, dated: 24.10.09

The Quality Control Team who enquired into allegations leveled against the field functionaries of NREGS Scheme being implemented in Pamur Mandal has reported that the following field Assts., have involved in excess payment, and payments are made without doing works and creation of fake musters in East Kodigudlapadu, Gummalampadu and East Kattakindapalli Gram Panchayats.

- 1) Siva Narayana – Field Asst., - East Kodigudlapadu
- 2) G. Venkateswarlu - Field Asst., - Gummalampadu
- 3) Srikanth - Field Asst., - East Kattakindapalli

The MPDO, Pamur is directed to remove the above filed Assts., from the services and file Criminal case against them and also initiate the recovery of excess payment as detailed below.

- 1) Siva Narayana – F.A., - East Kodigudlapadu : Rs.7,28,508.00
- 2) G. Venkateswarlu - F.A., - Gummalampadu : Rs. 15,594.00
- 3) Srikanth - F.A., - East Kattakindapalli : Rs.3,33,869.00

Rs.10,77,971.00

Yours faithfully,

For Collector & DPC.
NREGS, Prakasam."

3. The petitioner, who was working as Field Assistant at Gummalampadu village, complains against the communication on the ground that notice is not issued, no enquiry is conducted and as such, removal is unsustainable.

4. The second respondent filed counter and relevant portion of the counter affidavit reads as follows:

"3. It is submitted that the petitioner was appointed as Field Assistant in the month of October, 2006. His appointment is purely on temporary basis. His services can be terminated, without prior notice when there is misappropriation of funds and other allegations, as per G.O.Ms.No.376, dated 22.08.2008.

4. It is submitted that the petitioner during discharge of his duties by colluding with mates, Technical Assistant and other staff gave excess payment are made without doing works by creating fake musters. Further, Quality Control Official conducted enquiry in presence of all concerned including the petitioner and villagers. Later, they submitted report to the

2nd respondent on 08.10.2009 in which, they clearly observed the misappropriation of funds done by the petitioner and others to a tune of Rs.15,594/- and they are equally responsible for the said Misappropriation.

5. It is submitted that after receiving the report, the 1st respondent who is the superior Authority directed the 3rd respondent to remove the petitioner and other Field Assistants of other villagers from their services and also directed to file Criminal Cases and initiate recovery of excess amount drawn by them, by his proceedings in Rc.No.D3/770/EGS/09, Dated 26/10/2009. Accordingly, the third Respondent removed the petitioner from his service by serving the orders of the 1st Respondent.

6. It is submitted that later on 3rd respondent gave complaint to Sub Inspector of Police, Pamur relating to the misappropriation. A criminal case in Crime No.135/2009 of Pamur P.S.

Further the proceedings are initiated for recovery of the excess amount drawn by the Petitioner. Thus the respondents followed the procedure according to Law and removed the Petitioner from his services and they have not acted illegally or arbitrarily. But the petitioner with an intention to escape from his Criminal liability

and from reimbursing the amount filed the present writ petition with all false allegations.”

5. From the above counter, it is clear that the District Collector, after receiving report of Quality Control team dated 08.10.2009 and the orders of 26.10.2009 passed by him in his capacity as District Programme Coordinator, had taken the above decision. The first ground that no enquiry or opportunity was given is not tenable.

The petitioner's appointment is a simple temporary appointment as field assistant. The Government is implementing Rural Employment Guarantee Scheme for the benefit of people below poverty line.

The matter of trust is involved in implementation of such programmes. The district administration, *prima facie*, is satisfied that the petitioner is either indulging in presenting inflated claims or realizing money in bogus names, this Court cannot compel the respondents to continue the petitioner as Field Assistant and finally lead to deprivation of benefits to the eligible people.

Having regard to the peculiar facts and circumstances of this case, more particularly, that the petitioner created fake musters and involved in excess payments without doing works, the writ petition fails and accordingly dismissed. As a sequel, the miscellaneous applications, if any pending, shall stand closed. There shall be no order as to costs.

S. V. BHATT, J

June 7, 2016
DSK