

THE HON'BLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No.17331 of 2011

ORDER:

This writ petition is filed under Article 226 of the Constitution of India, challenges the order of the State Government – 4th respondent herein passed vide G.O.Rt.No.673 Panchayat Raj and Rural Development (PTS.II) Department, dated 30-04-2011 and the consequential proceedings bearing No.677/2009-B5(Pan), dated 14-05-2011 issued by the District Collector, Nizamabad – 1st respondent herein.

Heard, learned counsel for the petitioner, Sri K. Rama Mohan Mahadev, learned Government Pleader for Panchayat Raj for official respondents and Sri Ravi Kiran Rao, learned counsel for the un-official respondents.

Petitioner herein got elected as Sarpanch of Achanapally Gram Panchayat, Bodhan Mandal, Nizamabad District in the year 2006 and he belongs to Scheduled Tribe community. On the complaint made by the 3rd respondent, the 1st respondent District Collector initiated action under the provisions of A.P. Panchayat Raj Act, 1994 (for short, 'the Act') and after issuing show cause notice and submission of explanation by the petitioner, the District Collector passed an order under Section 249 (1) of the Act, ordering removal of the petitioner

from the post of Sarpanch besides ordering recovery of the amounts.

Aggrieved by the said order passed by the District Collector – 1st respondent, the petitioner herein preferred appeal before the 4th respondent – State Government. The State Government vide G.O.Rt.No.673 Panchayat Raj and Rural Development (PTS.II) Department, dated 30-04-2011 rejected the said appeal filed by the petitioner while directing the District Collector to get the works physically verified and to cheque measure the works and to settle the bills to him if any or to recover the amount if the petitioner is due to the Government.

Consequent upon the said orders passed by the State Government, the District Collector – 1st respondent herein issued proceedings No.677/2009-B5(Pan), dated 14-05-2011, directing the Panchayat Secretary, Gram Panchayat and the Extension Officer, Bhodan to take further action in the matter and to submit a report.

The said orders passed by the State Government vide G.O.Rt.No.673 Panchayat Raj and Rural Development (PTS.II) Department, dated 30-04-2011 and the consequential orders of the District Collector, dated 14-05-2011 are under challenge in the present writ petition.

An application in W.V.M.P.No.437 of 2012, supported by a counter-affidavit, is filed by the Upa-Sarpanch of the Gram Panchayat.

According to the learned counsel for the petitioner, the orders under challenge are illegal, arbitrary and violative of Article 14 of Constitution of India besides being opposed to the very spirit and object of the provisions of A.P. Panchayat Raj Act. It is further contended by learned counsel that the order of the State Government, which is under challenge in the present writ petition is a non-speaking order and the State Government did not undertake any exercise in the direction of considering various aspects raised by the petitioner in the grounds of appeal. It is also submitted by learned counsel that non-supply of copies of the complaint lodged by the 3rd respondent and the report submitted by the 2nd respondent tantamounts to violation of principles of natural justice.

On the contrary, it is submitted by learned Government Pleader and learned counsel for the 5th respondent that the respondents are perfectly justified in passing the impugned orders and there is no illegality nor there exists any procedural infirmity in the impugned action and only after affording complete opportunity to the petitioner herein the respondents herein passed the orders under challenge, as

such, they are not amenable for any judicial review under Article 226 of the Constitution of India. Aggrieved by the orders passed by the District Collector vide proceedings, dated 19-02-2010, removing the petitioner from the post of Sarpanch and fastening the liability, the petitioner herein filed statutory appeal under the provisions of Section 249 (7) of the Act. A perusal of the memorandum of grounds of appeal, dated 25-02-2010 placed before this Court vividly discloses that the petitioner herein raised a number of grounds for consideration of the State Government in the appeal.

A perusal of the order passed by the State Government vide G.O.Rt.No.673 Panchayat Raj and Rural Development (PTS.II) Department, dated 30-04-2011 shows, in clear terms, that the 1st respondent – State Government did not undertake any exercise in the direction of considering the contents of the appeal filed by the petitioner herein and various aspects raised by the petitioner in the said appeal.

It is settled and well established proposition of law that the orders of the quasi-judicial authorities are required to be supported by valid reasons. In the instant case, the said principle is followed in breach by the State Government while rejecting the appeal filed by the petitioner. The mode and manner in which the State Government considered the appeal

filed by the petitioner herein under A.P. Panchayat Raj Act can neither be approved nor countenanced. Therefore, this Court has absolutely no scintilla of hesitation to hold that the orders under challenge cannot be sustained in the eye of law and the appeal filed by the petitioner herein deserves consideration afresh on merits.

For the aforesaid reasons, the writ petition is allowed, setting aside the order passed by the State Government vide G.O.Rt.No.673 Panchayat Raj and Rural Development (PTS.II) Department, dated 30-04-2011 and consequential order of the District Collector – 1st respondent vide proceedings bearing No.677/2009-B5(Pan), dated 14-05-2011. The appeal, dated 25-02-2010 filed by the petitioner stands restored to file and the matter is remitted to the 4th respondent – State Government for fresh consideration, in accordance with law, in the light of the observations indicated supra, after giving notice and opportunity of being heard to all the stakeholders.

Miscellaneous Petitions pending, if any, shall stand closed. There shall be no order as to costs.

A.V. SESA SAI, J

December 20, 2016

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