

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.12942 OF 2016

ORDER:

The writ petition is filed challenging the proceedings dated 28.03.2016 of the 2nd respondent-District Collector.

Heard the learned counsel for the petitioner and the learned Government Pleader for Panchayat Raj.

As can be seen from the impugned order, it is clear that the petitioner was issued with a show-cause notice dated 30.01.2016 alleging certain misutilisation of the funds to the tune of Rs.18,57,955/-. In response to the said show-cause notice, petitioner submitted a detailed explanation dated 11.03.2016 adverting to each and every item of the expenditure of the amounts. Thereafter, the impugned proceedings were issued by the 2nd respondent-District Collector. So far as the relevant aspect of the impugned proceedings, for the purpose of disposal of the writ petition, are concerned which reads as under:

“It is presumed that, Sri. Bhukya Gangadhar Nayak, Sarpanch, Gram Panchayat, Lingapur of Kaddam Mandal has misused an amount of Rs.18,57,955/- and abused his position and misutilized the powers and functions and attracted the provisions of Telangana Panchayat Raj Act, 1994.

In view of the above Sri. Bhukya Gangadhar Nayak, Sarpanch, Gram panchayat, Lingapur of Kaddam mandal is hereby placed under suspension from the post of Sarpanch under Section 249(6) of Telangana Panchayat Raj Act, 1994 (for short, “the Act”) for a period of (3) months from the date of receipt of this order.”

A bare reading of the above quoted portion of the impugned proceedings discloses that except a reference made about the explanation, there is no consideration of the explanation submitted by the petitioner. The order also does not indicate any concrete finding having been arrived by the authority which is clear from the expression. “It is presumed that Sri. Bhukya Gangadhar Nayak, Sarpanch, Gram Panchayat, Lingapur of Kaddam Mandal has misused an amount of Rs.18,57,955/- and abused his position and misutilized the powers and functions and attracted the provisions of Telangana Panchayat Raj Act, 1994.

Further, though it is mentioned in the order that the petitioner was

placed under suspension for a period of three months, it does not indicate the same has been made pending investigation. In other words, the impugned order cannot be considered, as made under Section 249 (6) of the Act pending enquiry. Though there is a provision in Sub Section 7 of Section 249 of the Act for filing an appeal to the District Collector, in the absence of any reasoning in the order, the remedy of appeal would be an empty formality only and does not serve any purpose. In those circumstances, the impugned order is liable to be set aside.

Accordingly, the writ petition is allowed setting aside the order dated 28.03.2016 passed by the 2nd respondent-District Collector leaving it open to the 2nd respondent-District Collector to pass speaking orders after considering the explanation submitted by the petitioner within a period of four weeks from the date of receipt of copy of the order. However, it is needless to mention that the petitioner shall be given the opportunity of hearing before passing the speaking orders. No order as to costs.

Miscellaneous Petitions pending, if any, in this writ petition shall stand dismissed.

CHALLA KODANDA RAM,J

Date:19.04.2016.

Gk

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

-
-
-
-

WRIT PETITION No.12942 OF 2016

-
-
-
-
-
-
-
-
-
-

Date:19.04.2016

Gk