THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION NO.9357 of 2016

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Between:

V. Satyanarayana Goud

PETITIONER

AND

1. The State of Telangana, rep. by its Secretary, Panchayat Raj & Rural Development Department, Secretariat Buildings, Hyderabad, and others.

RESPONDENTS

ORDER:

Order dated 26.02.2016 passed by the 3rd respondent suspending the cheque drawing power of the petitioner pending enquiry is under challenge in this writ petition.

It is the specific contention of Sri T. Sujan Kumar Reddy, learned counsel for the petitioner, that as per Rule 42 of the Rules Relating to Certain Taxes & Other Lodging of Moneys Received by the Gram Panchayat and Payment of Money from the Gram Panchayat Fund (for short 'the Rules'), issued under G.O.Ms.No.30 dated 20.01.1995, a time limit has to be specified for withdrawal of cheque power. To buttress his contention he placed reliance on a judgment of this Court in **Somagani Venkata Subbamma v. District Panchayat Officer, Krishna District and another**[1]**.** It is contended by the learned counsel that in the case on hand while issuing show cause notice on 26.02.2016 simultaneously the cheque drawing power also was withdrawn from the petitioner and entrusted the same in favour of the Panchayat Secretary without specifying any time limit, in violation of Rule 42. The learned counsel also submits that the petitioner submitted his explanation on 11.03.2016 to the show cause notice, but no orders have been passed as on today thereby jeopardizing the rights conferred on the petitioner.

On the other hand, learned Standing Counsel Sri G. Narender Reddy appearing for the 4th respondent and learned Government Pleader for Panchayat Raj appearing for respondents 1 to 3 would submit that second proviso to Rule 42(1) of the Rules provides for suspension pending enquiry. Both the learned counsel submit that as against the order passed by the District Panchayat Officer appeal lies to the District Collector under Rule 42 (2) of the Rules thereby the writ petition does not deserve consideration.

At the outset, the judgment referred to by the learned counsel for the petitioner has no application to the facts of the present case. A careful reading of the judgment referred to above, would reveal that in the said case, final order has been passed after considering the explanation submitted by the petitioner therein. The order in that case was final order made under Rule 42(1) after complying with opportunity of hearing as mandated under Rule 42(1) 1st proviso. 2nd proviso to Rule 42(1) is in a way an exception to the 1st proviso providing for suspension as an interim measure pending consideration of explanation and passing of final orders.

In the present case, what has been challenged before this Court is interim suspension of cheque drawing power pending consideration of explanation submitted by the petitioner. Admittedly the petitioner was issued show cause notice calling for explanation and the petitioner had in fact submitted his explanation on 11.03.2016. Mere delay in passing the order cannot justify in setting aside the suspension pending consideration of the explanation and passing of final orders. In view of the same, challenge to the interim withdrawal of the cheque power does not deserve any consideration and to that extent the writ petition fails and deserves to be dismissed.

However, in as much as explanation has already been submitted by the petitioner to the show cause notice issued under Rule 42(1) of the Rules, the same shall be considered and appropriate final orders shall be by the 3rd respondent within a period of four weeks from today.

With the above observation the writ petition is disposed of. As a sequel, miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

CHALLA KODANDA RAM, J.

4th April, 2016
Js.

L.R. copy to be marked.

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[1] 2006 (4) ALD 1