

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.20823 of 2016

ORDER:

The writ petition is filed questioning the proceedings dated 19.04.2016 issued by the 4th respondent with a condition imposed that the cheques should be counter signed by the Extension Officer (PR & RD) along with the signature of the petitioner for honouring the cheques for indefinite period.

The sum and substance and argument of the learned counsel for the petitioner is that by virtue of G.O.Ms.No.432 dated 30.10.2013 as well as the duties and functions which are required to be carried out by the Panchayat Secretary, it is the Panchayat Secretary who is required to take into consideration various aspects particularly with respect to the financial matters and Sarpanch alone cannot be held responsible as the Sarpanch is the Head being guided by Panchayat Secretary and other staff. In particular, the learned counsel for the petitioner by placing reliance on G.O.Ms.No.432, wherein the procedure and precautions which are required to be taken by the Panchayat Secretary have scrupulously set out, submits that the petitioner alone is targeted in the present case for political reasons and no action as such has been taken against the Panchayat Secretary, who is responsible and culprit in the allegations with respect to the official matters.

Yet another ground raised by the learned counsel for the petitioner is that withdrawal of cheque power or modification of the cheque power cannot be for an indefinite period as per Rule-42 of G.O.Ms.No.30 dated 28.01.1995. Learned counsel further submits that the petitioner has already submitted his representation on 02.05.2016 and no final orders have been passed by the 3rd respondent-District Collector in terms of Rule 42 (2) of G.O.Ms.No.30.

Learned Government Pleader while opposing the writ petition

submits that inasmuch as the petitioner had already submitted his explanation, the 3rd respondent may be directed to pass final orders after taking consideration the explanation submitted by the petitioner.

This Court has rejected the similar argument raised vide order dated 01.06.2016 passed in W.P.No.16665 of 2016. In the said case, the argument raised on behalf of the petitioner-Sarpanch was that the manual of instructions and also training provided to the Panchayat Secretary amended with respect to various aspects of maintenance of accounts and various records. In fact, the same were provided by way of guidelines issued under a handbook. In the present case, G.O.Ms.No.432 is brought to the notice of this Court. However, the situation does not alter the sum and substance of the argument that it is the Panchayat Secretary who is responsible and the Sarpanch would not have any responsibility. This specific argument has been rejected by this Court as it can be said that the Head of the Institution is the one who is finally responsible with respect to conduct of the business of the Gram Panchayat. The Panchayat Secretary and other officers are to assist and guide the Sarpanch and other members of the Gram Panchayat. It is another thing to say that for the lapses on the part of the officers of the Gram Panchayat, disciplinary action either under service rules or under any other law may be required to be taken and it is another thing to say that they would be held responsible under G.O.Ms.No.30. In those circumstances, the principal argument advanced by the learned counsel for the petitioner is liable to be rejected.

The order impugned is passed in exercise of the power under proviso (2) of Rule 42 (1) under which only a final order is to be passed wherein the period of withdrawal of the cheque power would be specified. As the petitioner had already submitted his explanation, the writ petition is disposed of with a direction to the 3rd respondent-District Collector to pass appropriate orders after taking into consideration the explanation/representation submitted by the petitioner after providing an opportunity of hearing as amended under proviso (1) of Section 42

(1). It is also needless to mention that the 3rd respondent-District Collector shall also take into consideration the role played by the Panchayat Secretary and take necessary action as may be required by duly following the prescribed procedure. As the withdrawal of the cheque power should be for a specified period in view of Rule 42 (1), it is clear that suspension pending enquiry cannot be for an indefinite period. In that view of the matter, the 3rd respondent-District Collector shall complete the process of enquiry and pass final orders within a period of four weeks from the date of receipt of a copy of this order.

Accordingly, the writ petition is disposed of. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this writ petition shall also stand closed. There shall be no order as to costs.

CHALLA KODANDA RAM, J.

29th June, 2016
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THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

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Date:29.06.2016

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