

THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.25719 of 2009

ORDER:

Heard Mr. G. Venkat Reddy for petitioners; Mr. G. Seshadri, standing counsel for the third respondent and learned Assistant Government Pleader for Panchayat Raj.

2. Petitioners challenge order Rc.No.75/2009 dated 11.08.2009 and Rc.No.75/09 dated 24.08.2009 passed by the third respondent as illegal, arbitrary and unconstitutional. Through the impugned order, the third respondent removed the petitioners from services of Field Assistant of Laddagiri and Gorantla Villages of Kodumur Mandal, Kurnool District. Petitioners challenge the order of removal, primarily, on the ground that the third respondent did not issue notice to petitioners or conducted enquiry before concluding insubordination on the part of the first petitioner and dereliction of duties on the part of the second petitioner, therefore, prays for setting aside the order impugned in the writ petition.

3. The third respondent filed counter and also a petition to vacate interim order dated 26.11.2009. I consider it appropriate to excerpt paras 5, 6 and 7 of the counter affidavit:

“5. It is further submitted that on receipt of information about the irregularities committed by MC Giddaiah, FA of Gorantala Village, the APO, Kodumur was directed to enquire into the matter and to submit factual report. Accordingly, the APO has submitted his detailed enquiry report stating that the FA is not showing the works to all the wage seekers but providing works to one group only motive by dividing the wage seekers of the village into groups and also not opened the postal accounts to another groups: that during the field inspection of the project Director, DWMA, Kurnool and MPDO the concerned Post Master has reported to the PD that he is unable to distribute the wages in time to the wage seekers due to non-cooperation of the said field Assistant.

6. It is submitted that as per the findings of the Social Audit it was revealed that the said FA has committed grave irregularities with the

involvement of Village organizations in payment of wages to the wage seekers. With regard to

Smt. J. Madhavi, FA of Laddagiri Village, the petitioner, it is submitted that she is not monitoring the NREGS works regularly in the village and also not cooperating the Technical assistants and APO in taking measurements of the works done and also not having the nature of cooperating the wage seekers in providing sufficient works. Further, as per the findings of Social Audit the said petitioner has not distributed the housing payment of Rs.1,53,580/- to the 48 beneficiaries of Ramapuram Village so far though she has been issued a cheque bearing No.14761 dated 20.06.2008 and this clearly indicate the malafide intension of the FA. Further, series of meetings every week have been warned conducted to sensitize the FAs including these petitioners. It is further submitted that the above 2 petitioners have warned many a time on certain allegations by the MPDO and have directed to be more careful and prompt in future. But, they have not changed their mindsets and causing lot of inconvenience to the Mandal every week in generation of pay orders resulted in non payment of wages to the wage seekers within the stipulated time.

7. It is further submitted that as per the guidelines issued by the Commissioner, Rural Development – AP, Hyderabad in circular NO.4553/NREGS/2008 dated 02.07.2008, action against the FAs can be initiated based on a Report of GP, B. Social Audit, C. MPDOs own inspection/Verification, D. Inspection by any other functionary like Asst. PD Etc., Further, it is not out of place to mention that there is no contract agreement on the Fax and their appointment is also purely on the resolution of the GP by the MPDO. **Further, there is no need to issue suspension order, show cause notice etc., against the FAs and they will be terminated through a speaking order by the MPDO.** Under the above circumstances and taking into consideration of the facts are the case the services of the said petitioners have been terminated through the proceedings No.75/09 dated 11.08.2009 and 24.08.2009 respectively and the orders of termination have also been sent to the petitioners by RPAD. Further, the petitioner have failed to submit an appeal to the appellate authority i.e. Project Director/Addl DPC, NREGS, SWMA, Kurnool, within 30 days from the date of serving of Termination orders and thereby trespassed the departmental appellate authority and approached the Hon'ble High Court as such are not entitled to seek indulgence from this Honourable Court thus the writ petition is liable to be dismissed in limini. ”

4. Petitioners did not file reply submitting the stand taken by the third respondent in paras 5, 6 and 7 of the counter affidavit.

This Court, after perusing the accompanying annexures, is of the view that

the ground that no notice is issued before passing the removal order cannot and could not be brought home by the petitioners. Further, to the repeated query from Court whether any rules and administrative instructions are issued by the Government providing for procedure to be followed before the field assistant is removed,

learned counsel for petitioner has stated that there is no rule or administrative instruction issued by the Government but the contention is based upon the general principles of law. Be that as it may, the very first ground on which the order of removal is challenged fails, this Court is not inclined to interfere with the order of removal and the writ petition fails.

For the view I have taken, I am of the view that no further direction need be given and the writ petition fails and is 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