

THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.39193 of 2016

ORDER:

Heard Sri P.Radha Krishna for petitioner and Assistant Government Pleader for Panchayat Raj.

The petitioner challenges Proceedings Rc.No.1633/ 2016-A2 dated 31-10-2016 of 3rd respondent in withdrawing/ suspending the petitioner's cheque power as Sarpanch of Bhumayapally Gram Panchayat, Kazipet Mandal, YSR Kadapa District, as illegal and contrary to A.P.Panchayat Raj Act, 1994 (for short 'the Act').

The proceedings impugned in the writ petition read thus :-

"In the reference 1st cited above, the Divisional Panchayat Officer submitted his report and the Sarpanch Bhumayapally Gram Panchayat submitted his explanation and the same was not satisfactory during the enquiry pending for the above explanation before the Divisional Panchayat Officer, Kadapa as per Sub-Clause 42(1) of Section 268 of A.P.Panchayat Raj Act, 1994, the orders were issued temporarily suspending the cheque power of the Sarpanch Bhumayapally Gram Panchayat, Kazipet Mandal.

It is hereby informed to the Sub-Treasurer Mydukur and Branch Manager State Bank of India Mydukur not to accept the cheques of the Sarpanch Bhumayapally Gram Panchayat until further orders.

The Sarpanch cheque power was temporarily suspended, during the said period, the orders were passed for the funds of the Bhumayapally Gram Panchayat is to be withdrawn in the following manner.

1) Gram Panchayat Funds/ 13 & 14
Finance Commission funds"

Executive Officer(PR&RD)
Kazipet and Divisional
Panchayath Officer, Kadapa
with counter-signature"

On 20-09-2016, the 3rd respondent issued show-cause notice to petitioner. On 16-10-2016, the petitioner submitted detailed explanation on each one of the allegations made in the show-cause notice dated 20-09-2016. The 3rd respondent in exercise of the power under Rule 42(1) and Section 268 of the Act has withdrawn the power of petitioner to operate bank accounts of the Gram Panchayat.

Counsel for petitioner challenges the impugned proceedings as contrary to the principle laid down by this Court in *SOMAGANI VENKATA SUBBAMMA v. DISTRICT PANCHAYAT OFFICER, KRISHNA DISTRICT*¹ for the 3rd respondent cannot place the withdrawal power under suspension for an indefinite period. Therefore, prays for setting aside the proceedings impugned in the writ petition.

On 14-11-2016, at request of respondents 2 and 3, the writ petition was adjourned to today.

The Assistant Government Pleader places on record Memo No.11988/ Pts.I/ A2/ 2016, dated 09-11-2016.

From the Memo dated 09-11-2016, it is clear that the 1st respondent directs all the District Collectors-District Panchayat Officers to strictly follow the rigour of Rule 42(1) made under G.O.Ms.No.30 P.R.RD & R., dated 20-01-1995. Be that as it may.

From the material available on record, it is clear that show-cause notice is issued, explanation received and after perusing the

¹ 2006 (4) ALD 1

explanation submitted by the petitioner, this court is compelled to observe that effort ought to have been made by 3rd respondent atleast to verify the veracity of explanation given by the petitioner and thereafter take a decision as warranted by the conclusions. The order is passed suspending the cheque control power of petitioner. In the fact situation of this case, for two reasons, namely that the time is not stipulated in the order impugned and that the power is exercised in a monotonous way. Therefore, the proceeding impugned is set aside. It is open to 3rd respondent to take up and conclude the enquiry already initiated in this behalf to its logical end strictly in accordance with law.

The writ petition is ordered as indicated above. No order as to costs.

Miscellaneous petitions, if any, pending, shall stand closed.

Dt: 22-11-2016
Prv



S. V. BHATT, J

THE HON'BLE SRI JUSTICE S.V.BHATT



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22-11-2016

Prv

