

THE HON'BLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No.3966 OF 2010

ORDER:

This writ petition filed under Article 226 of the Constitution of India challenges the proceedings Rc.No.47/2009/EGS, Kotabommali, dated 05.12.2009, issued by Mandal Parishad Development Officer, Kotabommali Mandal, Srikakulam District – 1st respondent herein and the consequential notice bearing Rc.No.696/09C, dated 25.01.2010 of the Tahsildar, Kotabommali Mandal, Srikakulam District – 2nd respondent herein.

2. Heard Sri Aravala Rama Rao, learned counsel, appearing for the petitioner and learned Government Pleader for Panchayat Raj for the respondents.

3. According to the petitioner, he is an agriculturist and his wife was appointed as a Field Assistant under National Rural Employment Guarantee Scheme by the 1st respondent – Mandal Parishad Development Officer and the petitioner was never appointed as Field Assistant nor committed any irregularities as alleged in the impugned proceedings. It is the further case of the petitioner that the 1st respondent herein, without issuing any show-cause notice and without affording any opportunity of being heard, issued the impugned proceedings dated 05.12.2009 and the same is

violative of Article 14 of the Constitution of India and principles of natural justice.

4. No counter affidavit is filed by the respondents, opposing the writ petition and the contentions contained therein.

5. The only contention advanced, obviously, in the present writ petition is that the impugned action is in total violation of the principles of natural justice. A perusal of the impugned proceedings dated 05.12.2009 does not indicate as to the issuance of any show-cause notice prior to fastening the liability. It is a settled and well established proposition of law that any action on the part of the authorities which has civil consequences must necessarily be preceded by a notice and opportunity of being heard to the persons likely to be affected by such action. In the instant case, the same is conspicuously absent, as such, the impugned action which culminated in the issuance of the proceedings under challenge is in total violation of the principles of natural justice and on this sole ground, the present writ petition is liable to be allowed.

6. For the aforesaid reasons, writ petition is allowed, setting aside the proceedings Rc.No.47/2009/EGS, Kotabommali, dated 05.12.2009, issued by Mandal Parishad Development Officer, Kotabommali Mandal, Srikakulam

District – 1st respondent herein and the consequential notice bearing Rc.No.696/09C, dated 25.01.2010 of the Tahsildar, Kotabommali Mandal, Srikakulam District – 2nd respondent herein. However, it is open for the respondents to proceed in accordance with law after issuing notice and opportunity of being heard to the petitioner herein.

7. Miscellaneous petitions pending consideration, if any, in the Writ Petition shall stand closed in consequence. No order as to costs.

17.11.2016
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A.V.SESHA SAI, J