

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

WRIT PETITION No.35229 of 2014

ORDER:

This writ petition, filed under Article 226 of the Constitution of India, challenges the order passed by the 1st respondent vide proceedings No.D12/196/S.A./2013, dated -01-2014, confirming the orders passed by the 2nd respondent vide proceedings No.D12/194/S.A./2013, dated 20-08-2013.

According to the petitioner, he was appointed as Field Assistant at Suraram village, Balanagar Mandal, Mahaboobnagar District in the year 2010. The 2nd respondent issued a show cause notice bearing No.D12/196/S.A./2013, dated 24-06-2013, making certain allegations. In response to the said show cause notice the petitioner submitted an explanation. Thereafter the 2nd respondent vide proceedings No.D12/194/S.A./2013, dated 20-08-2013 dispensed with the services of the petitioner while ordering recovery of amount.

Aggrieved by the said order of termination and recovery of the amount, the petitioner preferred appeal on 21-10-2013 before the 1st respondent – District Collector. The 1st respondent – District Collector vide orders bearing No.D12/196/S.A./2013, dated -01-2014 rejected the said appeal.

In the above background, the present writ petition came to be filed, questioning the order passed by the appellate authority, confirming the orders passed by the primary authority, ordering

recovery and termination of the services of the petitioner.

According to the petitioner, the questioned orders are erroneous, illegal, arbitrary and violative of Article 14 of the Constitution of India. It is further submitted that the appellate authority did not undertake any independent appreciation on the grounds raised in the appeal. It is further contended that the appellate authority did not even refer to the contents of the appeal filed by the petitioner.

On the contrary, it is vehemently contended by the learned Standing Counsel that there is absolutely no illegality nor there is any procedural infirmity in the impugned order and only after affording reasonable opportunity to the petitioner, the respondent authorities passed the impugned orders, as such, the orders impugned are not amenable for any judicial review under Article 226 of the Constitution of India.

There is absolutely no dispute with regard to the reality that in response to the show cause notice issued by the 2nd respondent the petitioner herein submitted an explanation and thereafter the 2nd respondent passed the impugned order of termination while directing recovery of amount and on 21-10-2013 the petitioner herein filed an appeal before the 1st respondent – appellate authority, urging a number of grounds.

A perusal of the order passed by the appellate authority clearly reveals that except repeating the contents of the order of the primary authority, the appellate authority did not consider the grounds of appeal filed by the petitioner. This action on the part of the appellate authority can neither be approved nor countenanced.

Being an appellate authority, the 1st respondent herein ought to have adverted to and considered the grounds raised in the grounds of appeal filed by the petitioner herein but the 1st respondent did not undertake such an exercise.

In view of these reasons, this Court deems it appropriate to remand the matter to the 1st respondent herein for fresh consideration by setting aside the order of the appellate authority.

For the aforesaid reasons, the writ petition is partly allowed, setting aside the notice bearing No.D12/196/S.A./ 2013, dated - 01-2014 issued by the 1st respondent appellate authority and the appeal is remanded to the 1st respondent for fresh consideration, in accordance with law, after giving notice and opportunity of being heard to the petitioner herein. It is made clear that it is open for the petitioner to file additional documents and information, if any, before the appellate authority within a period of two (2) weeks from the date of receipt of a copy of this order for consideration of the 1st respondent. There shall be no order as to costs.

The Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

A.V. SESA SAI, J

March 09, 2016

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

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