

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

W.P.No.11570 of 2013

ORDER:

This Writ Petition filed under Article 226 of the Constitution of India, assails the order passed by the District Collector, Karimnagar vide proceedings No.A6/3964/2011-Pts dated 18.3.2013.

2. Heard the learned counsel for the petitioner and the learned Government Pleader for Panchayat Raj appearing for Respondents, apart from perusing the material available on record.

3. The petitioner herein is the Ex-Sarpanch of Dumpet Gram Panchayat, Karimnagar district. The District Collector-1st respondent herein issued a show cause notice bearing No.A2/3964/2011-PAN-1 dated 28.12.2011 under the purported exercise of powers under Section 254 of A.P. Panchayat Raj Act, 1994, calling upon the petitioner to show cause as to why action should not be initiated. In response to the said show cause notice dated 28.12.2011, the petitioner herein offered his explanation on 17.1.2012. The 1st respondent, thereafter passed order vide proceedings dated 18.3.2013, authorising the Tahsildar, Kathalapur mandal, Karimnagar District-4th respondent herein for recovery of an amount of Rs.1,36,363/- as arrears of land revenue, while recording that the petitioner herein misappropriated the said amount. The said order passed by the 1st respondent is under challenge in the present Writ Petition.

4. This Court, while issuing rule nisi on 17.4.2013, granted interim suspension of the impugned order in W.P.M.P.No.14331 of 2013.

5. Responding to the rule nisi issued by this Court, a counter affidavit deposited by the District Panchayat Officer, Karimnagar district-2nd respondent

herein is filed, denying the averments made in the writ affidavit and in the direction of justifying the impugned action.

6. According to the learned counsel for the petitioner, the order under challenge is arbitrary, illegal and violative of Article 14 of the Constitution of India and opposed to the very spirit and object of A.P. Panchayat Raj Act, 1994. It is further submitted that the 1st respondent herein did not take into consideration the contents of the explanation and did not consider the issue from proper perspective and passed the order without application of mind. It is further submitted that the 1st respondent passed the impugned order without giving any notice or opportunity to the petitioner and the same is violative of principles of natural justice.

7. On the contrary, it is vehemently contended by the learned Government Pleader that there is absolutely no illegality or any procedural irregularity in the impugned order and in the absence of the same, the impugned action is not amenable to judicial review under Article 226 of the Constitution of India. It is further submitted that the 1st respondent passed the impugned order strictly adhering to the principles of natural justice, as such, no interference is warranted under Article 226 of the Constitution of India.

8. There is absolutely no controversy with regard to the reality that in response to the show cause notice dated 28.12.2011 issued by the 1st respondent herein, the petitioner herein submitted an elaborate explanation on 17.1.2012, denying the allegations. A perusal of the order under challenge vividly discloses that without adverting to the contents of the said explanation offered by the petitioner herein and placing complete reliance on the report submitted by the District Panchayat Officer dated 6.3.2012, the 1st respondent passed the order under challenge. A perusal of the said order clearly shows that the said order is a non-speaking order without being supported by any reasons.

Having called for the explanation and having received the same, this Court does not find any justification on the part of the 1st respondent in not considering the contents of the explanation offered by the petitioner herein. It is also the submission of the learned counsel for the petitioner that since the present issue has civil consequences, the 1st respondent ought to have given opportunity of hearing to the petitioner before passing the impugned order.

9. It is settled and well established proposition of law that any action which has civil consequences, must necessarily be preceded by a notice and opportunity of being heard to the persons likely to be effected by such action.

10. In the facts and circumstances of the case, this Court is of the considered opinion that the impugned order dated 18.3.2013 passed by the 1st respondent cannot be sustained in the eye of law.

11. For the aforesaid reasons, the Writ Petition is allowed, setting aside the order passed by the District Collector-1st respondent vide proceedings No.A6/3964/2011-Pts dated 18.3.2013. However, it is open for the Respondents herein to proceed in accordance with law. As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

Date: 20.12.2016

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20.12.2016

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