

HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

WRIT PETITION No.29602 of 2016

ORDER:

This writ petition is filed seeking a writ of Mandamus declaring the proceedings in Roc.No.976/ 2015(PAM)A3, dated 01.08.2016 issued by the third respondent as illegal and arbitrary.

2. Heard Sri I.Koti Reddy, learned counsel for the petitioner, learned Assistant Government Pleader for Panchayat Raj and Rural Development (Andhra Pradesh) representing for respondents 1 to 4 and Sri G.Seshadri, learned standing counsel representing 5th respondent and Sri G.Krupa Chand, learned counsel representing respondent Nos.6 and 7.

3. The predominant contention of the learned counsel for the petitioner is that the third respondent has no right whatsoever to suspend the cheque power of the petitioner indefinitely. The learned Assistant Government Pleader would submit that the third respondent passed orders by following the procedure contemplated under the Andhra Pradesh Panchayat Raj Act and the Rules made there under. Learned counsel for respondents 6 and 7 submitted that the petitioner herein is not taking up any developmental activities, therefore, the third respondent is justified in passing the impugned order.

4. A perusal of the record reveals that the petitioner was elected as Sarpanch of Kancharagunta Grampanchayat of Kandukuru Mandal, Prakasam District, in the year 2013. A perusal of the record further reveals that on 18.06.2015 the first ward member of the Gram Panchayat and villagers have submitted a complaint to the second respondent alleging that the petitioner failed to take appropriate steps to supply drinking water to the villagers. The gist of the complaint is

that the villagers faced acute water shortage due to the inaction on the part of the petitioner. A perusal of the record further reveals that the Upa-Sarpanch of the Gram Panchayat also made complaint against the petitioner.

5. As per the allegations made in the complaints, the petitioner failed to take developmental activities in the village. Basing on the above complaints, the third respondent passed the impugned order on 01.09.2008 suspending the cheque power of the petitioner indefinitely. The crucial question that arises for consideration is whether the third respondent is empowered to suspend the cheque power of the petitioner indefinitely. To substantiate the arguments, learned counsel for the petitioner has drawn the attention of this Court to Rule 42 of the Rules of Gram Panchayat promulgated in G.O.Ms.No.30, Panchayat Raj and Rural Development, dated 20.01.1995. In order to appreciate the rival contentions, it is apposite to extract Rule 42(1) hereunder:

“The District Panchayat Officer concerned may, for sufficient reasons to be recorded in writing prohibit by an order any Sarpanch from drawing the moneys of the Gram Panchayat for such period as may be specified in such order.”

6. This Court is very much conscious that while exercising jurisdiction under Article 226 of the Constitution of India, this Court shall not lightly interfere with the order of suspension passed by a competent authority discharging quasi judicial functions unless it is contrary to the law or ex-facie illegal.

7. Sub-rule 1 of Rule 42 consists of two parts. The first one is –the District Panchayat Officer is empowered to suspend the cheque power of the Sarpanch of the Gram Panchyat by mentioning sufficient reasons for the same; the second one is - the District Panchayat Officer has to indicate specific period of suspension.

8. A perusal of the above Rule clearly demonstrates that the District Panchayat Officer is not empowered to suspend the cheque power of the petitioner indefinitely. It gives a caution to the District Panchayat Officer to satisfy himself that there are sufficient grounds to suspend the cheque power of the democratically elected Sarpanch of the Gram Panchayat and that he shall specify the period of suspension. If the District Panchayat Officer passes an order by suspending the cheque power of the Sarpanch without following the above two ingredients, such an order is not sustainable under law. On the other hand, passing of such an order is contrary to the letter and spirit of Sub-rule (1) of Rule 42. The learned counsel for the petitioner also drawn my attention to the decision of this Court in *SOMAGANI VENKATA SUBBAMMA v. DISTRICT PANCHAYAT OFFICER, KRISHNA DISTRICT AND ANOTHER*¹ wherein it was held at para 9 that

‘In this case, the petitioner herein was prohibited from drawing the Gram Panchayat funds permanently and completely, which is not contemplated under Rule 42(1) of the Rules. For this reason, the writ petition has to be allowed.’

The facts of the case on hand are almost identical to the facts of the case cited supra.

9. Having regard to the facts and circumstances of the case and also the principle enunciated in the case cited supra, the impugned order dated 01.08.2016 issued by the third respondent is liable to be set aside.

10. Accordingly, the writ petition is allowed at admission stage by setting aside the order in Roc.No.976/ 2015(PAM)A3, dated 01.08.2016 issued by the third respondent. However, allowing of this writ petition does not preclude the third respondent to pass appropriate orders in

¹ 2006(4) ALD 1

accordance with law. No order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

T.SUNIL CHOWDARY, J

September 2, 2016.
Pns.

