

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.19034 of 2016

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ORDER:

The order dated 27.05.2016 restricting the cheque drawing power of the petitioner-Sarpanch is challenged before this Court.

Though the learned counsel for the petitioner had raised various grounds, finally he restricted his prayer that a direction may be issued to the District Panchayat Officer to furnish the documents which the petitioner had sought in several letters particularly the letter dated 12.04.2016 to enable him to furnish his response to the impugned notice dated 27.05.2016.

Heard the learned counsel for the petitioner as well as the learned Government Pleader.

As can be seen from the impugned order dated 27.05.2016, it is clear that in an earlier occasion while suspending the suspension pending enquiry order made by the District Collector, petitioner approached this Court and the said order was set aside by this Court on the ground that the District Collector was not authorized and competent authority to make the said order. Thereafter, the present order is made suspending the withdrawal of cheque power of the petitioner pending finalization of the matter until further orders. Though in the impugned order, it is stated that the petitioner did not give reply to the charges framed against him vide notice dated 24.03.2016, it is the specific case of the petitioner that after receipt of the notice dated 24.03.2016, on 12.04.2016 petitioner made a representation to the authorities to furnish 1) records relating to estimate M Books and other minutes available with the Secretary on Construction of Plat Forms to bore wells. 2) The connected estimates M Books and paid vouchers cheque book etc relating to side drains

with minutes are available with the Secretary of Gram Panchayat 3) Other Stock registers on miscellaneous items along with Electrical goods and sanitation items are also with the Secretary Gram Panchayat. The impugned order does not indicate that the material sought by the petitioner was made available to him. It is the responsibility of the authorities to furnish relevant documents while issuing show cause notice, atleast when a request to that effect is made. The person who has been charged with would not be able to answer the charges in the absence of material. One way or other the authorities are ought to have responded to petitioner's request. In those circumstances, considering the fact that the order dated 27.05.2016 is made until further orders without specified time limit, which is one of pre-requisite for making an order under Rule 42 (1) of G.O.Ms.No.30 dated 28.01.1995, the order dated 27.05.2016 would have to be considered as an order passed pending enquiry. In those circumstances, in the facts of the present case, the 5th respondent shall furnish the documents to the petitioner, respond to the request of the petitioner dated 12.04.2016 to enable him to submit his reply to the show cause notice dated 24.03.2016. The respondents shall furnish the documents sought by the petitioner within a period of one week from the date of receipt of a copy of this order, upon which, the petitioner shall submit his explanation within a period of two weeks thereafter. The

4th respondent shall consider the explanation that may be submitted by the petitioner within two weeks thereafter and complete the enquiry and pass final orders under Rule 42 (1) by duly complying with the first proviso to Rule 42 (1).

With above observations, the Writ Petition is disposed of. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this writ petition shall

also stand closed.

17th June, 2016
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CHALLA KODANDA RAM, J.