

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.29611 OF 2017

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed seeking the following relief:

“to issue Writ Order or Direction more particularly one in the nature of Writ of Mandamus by declaring the action of the 4th respondent in placing the petitioner under suspension vide Proc.No.H4/1618/2017, dt. 22.7.2017 is illegal, arbitrary and violative of the principles of natural justice and also without jurisdiction and consequently direct the respondents to reinstate the petitioner into service as Manager Category-III with all attendant benefits.”

2. Heard learned counsel for the petitioner and learned Government Pleaders.

3. The case of the petitioner is that he is working as Manager Category-III, Gadwal Municipality, Jogulamba Gadwal District. While so, he was issued orders vide Proc.No.H4/16818/2017, dated 22.07.2017, suspending him from service by making vague allegations.

4. Learned counsel for the petitioner submits that the impugned order is without jurisdiction. As per Rule 28 of the Andhra Pradesh Municipal Ministerial Subordinate Service Rules (for short, 'the Rules'), the Commissioner of the Municipal Council is the competent person to take action against the petitioner. The same is not disputed by learned Government Pleaders for respondents.

5. Rule 28 of the Rules reads as follows:

“Discipline and Control: - (1) the Andhra Pradesh Civil Service (Classification, Control and Appeal) Rules, 1963 applicable to Government Employees shall be made applicable to the members of the service except to the extent indicated hereunder.

- (2) The Commissioner of the Municipal Council may suspend a member of this service of all categories pending enquiry into grave charges or impose the following penalties:
- (i) Censure,
 - (ii) Withholding of increment, and

Recovery from pay of the whole or any part of any pecuniary loss caused to the Municipal Council by negligence or breach of orders while working in the Municipality.”

6. A reading of Rule 28 of the Rules, it is clear that the Commissioner of Municipal Council is the competent person to suspend the members of this service. In the present case, the Collector and District Magistrate, Jogulamba Gadwal District, has issued the impugned proceedings, who is not a competent person. Hence, the impugned order is liable to be set aside.

7. Accordingly, the Writ Petition is allowed setting aside the order, dated 22.7.2017. However, this order will not preclude the respondents from taking action against the petitioner, in accordance with law.

SEPTEMBER 01, 2017
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A.RAJASHEKER REDDY, J

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY



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Date: 01.09.2017

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