THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.22658 OF 2006

ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking the following relief:-

> *"to issue a writ, order or direction more particularly one in the nature of Writ of certiorari to call for the records in proceedings No.B1/835/2006/8, dated 13.10.2006, issued by the 1st respondent herein, proposing to recover a sum of Rs.1,31,888/- by launching criminal prosecution against the petitioner under Section 409 of IPC as illegal, void and without jurisdiction."*

2. Case of the petitioner is that he is the Ex.Sarpanch of Shainpally Gram Panchayat, Shainpally, Bijinapally Mandal, Mahaboobnagar District. While so, on the ground that he misappropriated 645.80 quintals of rice belonging to "Individual Sanitary Latrines" Scheme beneficiaries, respondent No.1 issued a show cause notice on 26.06.2006 calling for explanation within 15 days from the date of receipt of the said notice. As there is no response from the petitioner to the said show cause notice, respondent No.1 issued proceedings, dated 13.10.2006, proposing to recover a sum of Rs.1,31,888/- from the petitioner by launching criminal prosecution against him under Section 409 I.P.C. The petitioner apprehends that respondent No.1 may initiate criminal action against him for the alleged misappropriation. Hence, he filed the present writ petition.

3. Heard and perused the material available on record.

4. Considering all the facts and circumstances of the case, this Court is of the view that this Court cannot go into the allegations since the records cannot be verified by this Court, as this Court is not a trial Court to decide as to whether there is any misappropriation or not, but it is left open to the Investigating Agency to investigate into the matter and file a final report. At the same time, as the entire case is based on records, respondent No.5/police, with whom the F.I.R. is pending, is directed not to arrest the petitioner and he shall investigate the matter and file the final report either way in accordance with law.

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

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

JUSTICE RAJA ELANGO

Date : 03.08.2017
AMD

THE HONOURABLE SRI JUSTICE RAJA ELANGO

HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH
सत्यमेव जयते

WRIT PETITION No.22658 OF 2006

Date: 03.08.2017

AMD