

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No. 28196 OF 2017

ORDER :

This writ petition is filed challenging the orders passed by the 3rd respondent in Rc.No.16/AA/HR/TPMU/2014, dated 05.06.2015.

Heard learned counsel for the petitioner and learned Assistant Government Pleader for Panchayat Raj and Rural Development appearing for respondents 1 to 3.

Learned counsel for the petitioner submits that the petitioner was working as Assistant Project Manager in the Velugu DRDA, West Godavari District. The 3rd respondent-Project Officer, ITDA, by proceedings dated 05.06.2015 placed him under suspension for the alleged misappropriation of Sthreenidi funds. Subsequently, after framing of articles of charge, Inquiry Officer was appointed on 14.12.2016 and he submitted report dated 06.02.2017. He submits that petitioner was issued with show-cause notice dated 03.03.2017 and subsequently, he submitted his explanation on 24.03.2017. He submits that the 3rd respondent has no jurisdiction to place the petitioner under suspension contrary to SERP Employees (Society for Elimination of Rural Poverty) Rules, 2009 and continuing him under suspension beyond two years and also in not paying the enhanced subsistence

allowance as per the above Rules. He submits that since the Project Officer-3rd respondent has no jurisdiction to conclude the departmental proceedings, as such, referring the matter to Project Director, goes to show that the Project Director also has no jurisdiction in the matter.

On the other hand Learned Assistant Government Pleader for Panchayat Raj produced some rules, which are also filed by the petitioner along with material papers. Even according to said Rules, which are termed as 'Terms and Conditions of Employment of SERP Employees, 2009'.

Clause 8.2 : Suspension.

(vii) of the said Terms and Conditions of Employment of SERP Employees, 2009 reads as follows:

“(1) The Project Director, DPMU/TPMU is the competent authority to place any of the employees of Level 1, Level 2 and Level 3 working in DPMU/TPMU under suspension. The Chief Executive Officer of the SERP is competent to place any of the employee of the SERP under suspension.

2). Notwithstanding anything contained in these rules, the Executive Council may place any employee of the SERP under suspension.”

In this case, it is to be seen that admittedly, the Project Officer has issued impugned proceedings suspending the petitioner and the competent authority to suspend the employees of SERP is the Project Director. The Chief Executive Officer has also power to place the petitioner under suspension. Therefore, the Project Officer-3rd respondent is not competent authority to pass the impugned order of suspension.

In view of the above facts and circumstances, the impugned order of suspension dated 05.06.2015 passed by the 3rd respondent is set aside as without jurisdiction. However, this order will not preclude the competent authority from taking action in accordance with law. Petitioner is entitled for subsistence allowance and respondents are obligated to pay the same, if not already paid.

Accordingly, this writ petition is allowed to the extent indicated above. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand disposed of.

04-09-2017
kvs



A.RAJASHEKER REDDY, J

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.28196 OF 2017



Date: 04.09.2017

kvs

