

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

WRIT PETITION No.13516 of 2017

ORDER :

The petitioner is the Sarpanch of Amistapur Gram Panchayat, Boothpur Mandal, Mahabubnagar District. She was kept under suspension for a period of three months vide proceedings No.A7/890/2016, dated 07.04.2017, issued by the 2nd respondent – District Collector (Panchayat Wing), Mahabubnagar District. Challenging the said suspension order as illegal and arbitrary, the petitioner has filed the present writ petition.

2. The respondents to the writ petition, besides the State of Telangana, represented by the Principal Secretary to Panchayat Raj Department, being respondent No.1, are the District Collector (Panchayat Wing), Mahabubnagar District; the District Panchayat Officer, Mahabubnagar; the Mandal Development Officer, Boothpur, Mahabubnagar District, being respondent Nos.2 to 4, respectively; and one Mr. Mohammed Aziz, who was subsequently impleaded as un-official respondent No.5, vide order dated 25.04.2017 passed by this Court in WPMP.No.18470 of 2017.

3. The averments in the writ petition from the supporting affidavit show that the petitioner has been discharging her duties as Sarpanch honestly and sincerely, however, the Ward Members, who belong to rival Political Party, made a frivolous complaint on 24.10.2016 against her as if she has taken some amounts from two persons for issuance of House Construction Permission in the illegal layouts and basing on the said complaint, the 2nd

respondent – District Collector (Panchayat Wing) appointed respondent No.3 – District Panchayat Officer to conduct enquiry, who inturn, conducted the enquiry on 30.11.2016 without even seeking detailed explanations from the persons from whom the amounts alleged to have been received by the petitioner, if at all true, and submitted a report of even date to the 2nd respondent. Pursuant to the same, a show cause notice dated 15.12.2016 calling for her explanation was issued to the petitioner, to which she has submitted a detailed reply on 05.01.2017 by denying all the allegations and how the opposite group of rival Political Party is acting against her. Despite acknowledging the said reply to the show cause notice and without considering her explanation, the 2nd respondent erroneously issued the impugned proceedings dated 07.04.2017, under the guise of exercise of the powers under Section 249(6) of the Panchayat Raj Act, suspending her from the post of Sarpanch for a period of three months and directing her to handover the charge to the 5th respondent – Upa-Sarpanch. Aggrieved by the same, the petitioner has filed the present writ petition.

4. The learned Government Pleader for Panchayat Raj appearing for respondent Nos.1 to 4 submitted parawise written remarks, stating that some Ward Members of the Panchayat in 'PRAJAVANI' held on 24.10.2016 stated that the petitioner, being Sarpanch of Amistapur Gram Panchayat, has given construction permissions on illegal layouts without the knowledge of the Panchayat Secretary and the Gram Panchayat by collecting amounts and not remitted the said amount to the funds of the Gram Panchayat and

requested to conduct enquiry and consequently, the District Panchayat Officer was directed by the District Collector (Panchayat Wing) to conduct enquiry and in the said enquiry, the Sarpanch, Ward Members, former Panchayat Secretary, present Panchayat Secretary and Extension Officer were present. During enquiry, the Sarpanch, in her statement, stated about granting of four construction permissions without the knowledge of Panchayat Secretary, which are not approved by DTCB, to (1) Sri Vislavath Kamliya, (2) Smt. Chintakindi Laxmamma, (3) Sri K. Ayyappa, (4) Sri Bandari Balaswamy, (5) Smt. K. Bhagyamma, and (6) Smt. Kondamma and the written statements given by Sri Vislavath Kamliya and Sri Bandari Balaswamy stating that they have given Rs.12,000/- and Rs.6,000/-, respectively, to one Sri Hathi Ram, who is none other than the husband of the Sarpanch, and not to the Sarpanch. What was the permission given to Sri K. Ayyappa etc., was by the former Panchayat Secretary and not by the present Sarpanch. It is thereby the learned Government Pleader and the learned counsel appearing for 5th respondent are supporting the impugned order of suspension issued against the petitioner.

5. Heard Sri V. Brahmaiah Chowdary, learned counsel appearing for the petitioner, as well as the learned Government Pleader appearing for respondent Nos.1 to 4, and Sri Krishna Kishore Kovvuri, learned counsel appearing for respondent No.5. Perused the impugned order and the material available on record.

6. From a perusal of the impugned suspension order dated 07.04.2017, the only issue to be considered is that the Sarpanch has issued construction permissions in unapproved layouts to one

Sri Vislavath Kamliya and Sri Bandari Balaswamy by receiving amounts and the said amounts were not remitted to the Panchayat Funds. Whereas in the parawise remarks stated received by the learned Government Pleader for Panchayat Raj, it was mentioned as if the Sarpanch had committed the act of mis-appropriation or mis-demeanour to the office in many matters, though the show cause notice issued to the petitioner reflects that it was only in respect of two items. In fact, from the very parawise remarks, what was reflected is, in respect of two construction permissions, the so called amounts collected from the two persons were not given to the Sarpanch, but to her husband only.

7. Therefore, proper enquiry was not conducted as contemplated by law in finding fault with the petitioner-Sarpanch and suspending her for three months without any basis. For the aforesaid reasons, the impugned order dated 07.04.2017 is unsustainable and it is liable to be set aside.

8. Accordingly, the writ petition is allowed setting aside the impugned suspension order dated 07.04.2017 issued by the 2nd respondent. However, this order will not come in the way of conducting proper and effective enquiry by the authorities and if at all any action to be taken is only by following due process of law.

9. As a sequel, miscellaneous petitions pending, if any, in this writ petition shall stand closed.

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20.06.2017.
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