

HON'BLE SRI JUSTICE S.V. BHATT

W.P.No.8721 OF 2008

ORDER:

Heard Mr.A.Kranthi Kumar Reddy for petitioner, the Assistant Government Pleader for respondents 1 and 2 and Mr.Narender Reddy for respondents 3 and 5.

The case of petitioner is that in the year 2006 on the strength of resolution of Kothapalli Gram Panchayat, the petitioner was appointed as Field Assistant to supervise and oversee the welfare works implemented under the National Rural Employment Guarantee Act, 2005. On 28.03.2008, the 3rd respondent issued memo calling upon the petitioner to show cause on the social audit report and also the alleged commissions and omissions of discharge of duty by the petitioner. On 31.03.2008, the petitioner submitted explanation on the charges alleged against petitioner. On 10.04.2008, the proceedings impugned in the writ petition were issued removing the petitioner as Field Assistant. Hence, the writ petition.

On 21.04.2008 in W.P.M.P.No.11563 of 2008, the following interim order was passed:

A perusal of the impugned order discloses that the first respondent issued directions to the third respondent to remove the Field Assistants and a semblance of show cause notice was issued thereafter.

En masse, 15 Field Assistants were removed, without making even a reference either to the show cause notice or to the explanation said to have been submitted by them. Prima facie, the impugned proceedings cannot be sustained in law.

Hence, there shall be interim suspension, as prayed for, to the extent of the petitioner”.

The 3rd respondent did not file counter affidavit or a petition to vacate the interim order dated 21.04.2008. The interim order is subsisting as on date.

Mr.Kranthi Kumar Reddy for petitioner contends that the removal of petitioner as Field Assistant is on serious allegations and the removal order is passed without referring to the explanation given by the petitioner or taking note of the recovery effected, much less any opportunity was afforded to petitioner to explain the charges levelled against him. He prays for setting aside the impugned proceedings.

Counsel for 3rd respondent by referring to Memo dated 28.03.2008 vehemently contends that the social audit report is the basis for issuing the memo dated 28.03.2008. The acts of commission and omission on various Field Assistants are reflected in the social audit report. The explanation of petitioner admits entrustment of Field Assistant work to a person chosen by the petitioner and there is hardly any explanation on the objections pointed out in the social audit. Therefore, by relying upon the annexures filed by petitioner, he contends that the proceeding is tenable in law. He alternatively submits that if the proceeding impugned in the writ petition is bereft of reasons or violates principles of natural justice, normally the course followed by this Court is to interdict the proceeding on the short ground and remit the matter to 3rd respondent for consideration afresh in accordance

with law. I have referred to both the submissions of learned counsel only to state that the effort now taken by the counsel representing 3rd respondent is not taken by the 3rd respondent while issuing the proceeding impugned in the writ petition. Everything is left to guessing and speculation. The method in which the proceeding is issued particularly without assigning reasons and not even referring to the contents of explanation given by the petitioner vitiates the proceeding impugned in the writ petition. Hence, on this short ground, the proceeding is set aside and the matter is remitted to 3rd respondent for disposal in accordance with law within two months from the date of receipt of copy of this order. The petitioner is given liberty to file a supplementary explanation if he so advised within two weeks from today.

The writ petition is ordered as indicated above. There shall be no order as to costs.

Consequently, pending miscellaneous petitions, if any, also stand disposed of.

S.V.BHATT, J

24th January, 2017

Note:

Issue CC in 3 days.

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