

THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION Nos.27906 and 30709 of 2012

COMMON ORDER:

Heard Sri K.Venumadhav for petitioners, Assistant Government Pleader (Panchayat Raj) and Assistant Government Pleader (Revenue).

The petitioners in these two writ petitions challenge order No.W15/6078/2012 dated 21-08-2012 of the District Collector and District Programme Coordinator, Karimnagar-1st respondent. Through the order impugned in these writ petitions, the 1st respondent ordered to recover the deviation amounts from the concerned by invoking the R.R.Act apart from referring to departmental action under CCCA Rules and further directed initiation of action under SRDS Rules against Fixed Tenure Employees.

Sri K.Venumadhav contends that the show-cause notice was issued by the 2nd respondent-Project Director, report was called for and based on the material available on record, instead of 2nd respondent, the 1st respondent has passed the order. The extended submission of learned counsel for petitioner is that the 1st respondent, before passing the orders impugned in the writ petition, did not afford opportunity to petitioners. He prays for setting aside the orders impugned in the writ petitions on this ground alone.

The circumstances in these two writ petitions are substantially same and similar.

The 1st respondent filed counter affidavit in W.P.No.30709 of 2012. In the counter affidavit, the circumstances leading to the order of recovery, further disciplinary action etc., are referred to. The 1st respondent submits that the 2nd respondent has issued show-cause notice, final show-cause notice by giving copy of report on which deviations were noticed. According to 1st respondent, on 09-05-2012 the 2nd respondent issued notices to all the persons involved in the episode of misappropriation to appear on 23-05-2012. Another show-cause notice was issued on 21-06-2012 to appear on 28-06-2012. According to 1st respondent, the deviations referred to are properly verified and recorded by the Regional Quality Control Officer. On the complaint of petitioners that notice was not issued by 1st respondent, the counter reads thus:-

“Hence the contention of the writ petitioners that, the 1st respondent without looking into the reality, without calling for records and without considering the explanation submitted by him simply passed the order on 21-08-2012 is not correct but after careful examination of the explanation submitted by the writ petitioners and with reference to the material records, it was concluded the explanation submitted by the writ petitioners are not genuine. Hence, ordered for recovery of the deviation amount from all the indicted persons including the writ petitioners under the A.P.Revenue Recovery Act, 1864 and the 3rd respondent was instructed to initiate criminal prosecution against all the persons involved in misappropriation of the funds.”

I have perused the show-cause notice issued by 2nd respondent, explanation offered by petitioners and the final communication of 1st respondent.

This court is of the view that in the working of this programme, the District Programme Co-ordinator is the Collector and the 2nd respondent is the Project Director, District Water Management Agency. The initial enquiry, collection of technical report etc., were undertaken by 2nd respondent. On all the commissions and omissions, the 2nd respondent has put the petitioners on notice, received explanation, thereafter, issued final notice calling upon the petitioners to pay the amount covered by deviations. After all these efforts of 2nd respondent failed, the file was placed before the 1st respondent. The 1st respondent has merely ordered to recover the deviation amount from the petitioners and initiate disciplinary action against erring officers.

By applying the principle of natural justice or reasonable opportunity in a case like this, this Court is of the view that these contentions are stretching these two requirements too far. Further, as is evident from the stand taken in the counter affidavit, the Assistant Engineer, Panchayat Raj, under whose administrative control and supervision these deviations had occasioned, accepted the deviations and also paid the amount demanded from him.

In the peculiar facts and circumstances of the case, particularly having regard to the orders of recovery directed against petitioners, I am not persuaded with the submission of learned counsel for petitioners.

The writ petitions fail and are accordingly dismissed. No order as to costs.

Miscellaneous petitions, if any, pending, shall stand closed.

Dt: 31-01-2017
Prv

S. V. BHATT, J

