

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.5083 OF 2017

DATED : 21.02.2017

Between :

Boddu Suresh S/o.B.Venkataramaiah,
Aged about 27 yrs, Yerravandlapalli,
Ayyavandlapalli Gram panchayat,
Pulicherla Mandal, Chittoor District.

.. Petitioner

And

The State of Andhra Pradesh,
Rep., by its Principal Secretary,
Revenue Department,
Secretariat, Velagapudi,
Amaravathi, Guntur District & others.

.. Respondents



This court made the following :

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.5083 OF 2017

ORDER :

Petitioner was appointed as Senior Mate by proceedings dated 17.01.2017 under Mahatma Gandhi National Rural Employment Implementation Scheme. Alleging that a complaint was received that the signature of Janmaboomi Committee Member was forged to secure employment and on enquiry the said allegation was proved, by proceedings dated 24.01.2017 the order of appointment was cancelled. In this writ petition, petitioner challenges the said cancellation order.

2. Heard learned counsel for the petitioner and learned Special Standing Counsel for respondent -District Water Management Agency.

3. Learned counsel for the petitioner contends that the order of cancellation is not preceded by notice and opportunity and the same is liable to be set aside on this sole ground. The cancellation order alleges forgery of signature of Janmaboomi Committee Member by the petitioner and when such a serious allegation is made, petitioner is entitled to be afforded an opportunity of hearing and no order of cancellation of appointment can be made without following the due process, more so, when it is based on an allegation. He further submits that even this order of 24.01.2017 does not cancel the order of appointment dated 17.01.2017 but cancels joining report dated 20.01.2017 and on that ground also, it is liable to be set aside.

4. On instructions, learned Special Standing counsel submits that the Janmaboomi Committee Member whose certificate was enclosed by the petitioner to claim employment, alleges that no such certificate was issued by her and that her signature was forged. This was enquired into and having found that the signature of Janmaboomi Committee Member was forged, cancellation of appointment is made. He further submits that since petitioner was appointed only on 17.01.2017 and immediately thereafter, the issue of forgery came to light which is a very serious allegation, immediate steps are taken for cancellation of appointment and therefore, there is no illegality in such cancellation.

5. As a consequence to order appointing the petitioner, a right is accrued to petitioner to work in terms of such appointment order. The cancellation of appointment is on the ground that a complaint was received alleging forgery of signature of a Janmaboomi Committee Member. This order of cancellation is stigmatic and admittedly though some kind of enquiry was conducted, the same was behind the back of petitioner and petitioner was not given any opportunity to rebut the allegation. When such an allegation of forgery is made, the elementary principle of law requires that the person against whom such allegation is made be given an opportunity of hearing. Admittedly, no such opportunity was given. Thus, on this ground the order of cancellation of appointment is liable to be set aside.

6. As rightly contended by learned counsel for the petitioner, there is no application of mind and the order is passed cancelling

the order dated 20.01.2017 though appointment order was dated 17.01.2017. The order impugned does not cancel the appointment order but cancels the consequential order.

7. Having regard to the above, the Writ Petition is allowed at the admission stage and the order impugned is set aside. It is open to the Project Director, District Water Management Agency, Chittoor to proceed against the petitioner, if so warranted, by following the due process. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

21st February, 2017
Rds

P.NAVEEN RAO,J

