

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.28543 of 2016

ORDER:

This Writ Petition under Article 226 of the Constitution of India is filed seeking the following relief:

“ ... to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the Letter No.1886/2015 A1, dated 4.6.2016 on the file of the 3rd respondent and consequential Proceedings in Rc.No.1886/2015/A1, dated 18.8.2016 on the file of the 2nd respondent as illegal, arbitrary, violation of Principles of Natural Justice, violation of Provisions of the Gram Panchayat Act, 1994 and Rules made thereunder and set-aside the same”

2. Heard the learned counsel for the petitioner and the learned Government Pleader for PR & RD for respondents.

3. Petitioner herein is the Sarpanch of Payakaraopeta Gram Panchayat, Payakaraopeta Mandal, Visakhapatnam District. The District Panchayat Officer vide proceedings in Rc.No.1886/2015/A1 dated 18.12.2015 issued a show cause notice asking the petitioner to show cause as to why his cheque power should not be withdrawn while framing as many as 7 charges against the petitioner herein. In the said order, the District Panchayat Officer also suspended the cheque power of the petitioner herein. In response to the said show cause notice, the petitioner herein filed explanation on 11.01.2016 denying the charges contained in the show cause notice. Thereafter, the District Panchayat Officer vide proceedings in Rc.No.1886/2015/A1 dated 04.06.2016 ordered withdrawal of the cheque power of the petitioner permanently. As against the said order, petitioner

herein filed an appeal under Rule 42 (2) of the Rules notified in G.O.Ms.No.30 PRRD & Relief dt.20.01.1995 before the District Collector. The District Collector (P.W.) Visakhapatnam by way of an order dated 18.08.2016 rejected the said appeal filed by the petitioner herein. Questioning the validity of the order passed by the District Panchayat Officer on 04.06.2016 as confirmed by the District Collector on 18.08.2016, present Writ Petition is filed.

4. According to the learned counsel for the petitioner, as per Rule 42 of the above mentioned Rules, the cheque power of the Sarpanch cannot be withdrawn for unlimited period.

5. Rule 42 (1) of the said Rules reads as under:

The District Panchayat Officer concerned may, for sufficient reasons to be recorded in writing provision by an order any Sarpanch from drawing the moneys of the Gram Panchayat for such period as may be specified in such order.

6. In fact, in the grounds of appeal filed by the petitioner before the District Collector, the petitioner herein brought to the notice of the District Collector a judgment rendered by this Court in *Somagani Venkata Subbamma vs. District Panchayat Officer, Krishna District and another*¹. In the above mentioned judgment, this Court while dealing with Rule 42 of the said Rules at paragraph No.9 held as under:-

¹ 2006 (4) ALD

“9. In this case, the petitioner herein was prohibited from drawing the Gram Panchayat funds permanently and completely, which is not contemplated under Rule 42 (1) of the Rules. For this reason, the writ petition has to be allowed.”

7. In the instant case also, the District Panchayat Officer by virtue of the order under challenge has permanently withdrawn the cheque power of the petitioner and the same is confirmed by the District Collector, obviously without taking into consideration the above said provision of law.

8. In view of the above reasons, the Writ Petition is allowed setting aside the Letter No.1886/2015 A1, dated 4.6.2016 of the 3rd respondent as confirmed by the orders in Rc.No.1886/2015-A1 dated 18.08.2016 passed by the District Collector (PW), Visakhapatnam District-2nd respondent. However, it shall be open to the respondents to take appropriate action against the petitioner in accordance with law.

9. Miscellaneous petitions pending in this writ petition, if any, shall stand closed. No order as to costs.

JUSTICE A.V.SESHA SAI

21.02.2017
Tsnr