

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.17840 OF 2017

ORDER:

The petitioner states that she was elected as a Sarpanch of the Narukullapadu Gram Panchayat in the elections held in the year 2013. Her son is stated to be a sympathizer of opposing party. On some allegations, an order was passed on 25.06.2015 by the Divisional Panchayat Officer ordering that she should operate the funds of the Gram Panchayat with the counter signature of the Extension Officer until further orders. The same was challenged in W.P.No.42814 of 2016 and the order passed by the Divisional Panchayat Officer was set aside by this Court by order dated 19.12.2016. In spite of the same, when the petitioner was not allowed to operate the funds, she filed C.C.No.328 of 2017 and after implementation of the orders, the contempt case was closed on 24.03.2017.

While so, she was served with two proceedings, one by the District Panchayat Officer dated 25.03.2017, proposing to prohibit her from drawing the funds of the Gram Panchayat and seeking her explanation to the same. The other one is a notice from the second respondent under Section 249(1) of the Panchayat Raj Act proposing to remove her from the Office and asking her to show cause as to why action should not be taken against her. The said action was sought to be taken on the basis of the report submitted by the Divisional Panchayat Officer dated 14.03.2017. She filed W.P.No.11925 of 2017 challenging the withdrawal of the cheque drawing power and with regard to the show cause notice, she submitted her explanation. When she asked for a copy of the report alleged to have been submitted by the Divisional Panchayat Officer dated 14.03.2017, the same was not supplied to her but the second respondent, by order dated 17.04.2017 passed an order

removing her from the post of Sarpanch. Challenging the same, the present writ petition is filed.

This Court, by order dated 06.06.2017, placing reliance on a decision of a Division Bench of this Court in **D.Sathi Reddy vs. Commissioner, Panchayat Raj, A.P., Hyderabad¹**, granted interim suspension of the proceedings of the Collector dated 17.04.2017. Now it is stated that the report of the Divisional Panchayat Officer is supplied to the petitioner, but such report was supplied to the petitioner only after passing the impugned order on 17.04.2017.

It is submitted by the learned counsel for the petitioner that in spite of the order of this Court dated 06.06.2017 suspending the impugned order, the petitioner was not allowed to discharge her duties resulting in filing of the contempt case, which is yet to be numbered. Now the petitioner also filed W.P.M.P.No.28130 of 2017 seeking a direction to the second respondent to hand over charge to the petitioner, but the learned Government Pleader submits that the proceedings were already issued and charge was handed over to the petitioner.

In view of the law laid down by the Supreme Court, it is clear that passing of an order by the second respondent on 17.04.2017 without supplying the copy of the Divisional Panchayat Officer dated 14.03.2017 is *prima facie* illegal. This position is accepted by all the respondents before this Court. In view of the same, the writ petition is allowed by setting aside the impugned order of the second respondent dated 17.04.2017 and the matter is remanded to the second respondent for consideration of the case of the petitioner afresh after hearing the petitioner and pass appropriate orders in accordance with law within a period of three months from the date of receipt of a copy of this order.

¹ 1995 (5) ALT 535 (DB)

Till an order is passed by the second respondent, the petitioner shall be allowed to continue to discharge the duties of the Sarpanch.

The writ petition is accordingly allowed. Consequently, miscellaneous petitions pending, if any, shall stand closed.

A.RAMALINGESWARA RAO, J

08.08.2017
pln

