

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition No. 28368 of 2017

Order:

The petitioner was elected as Sarpanch of the fifth respondent Grampanchayat on 27.07.2013 and continuing as such. While so, a show cause notice dated 23.04.2017 was received from the second respondent on the basis of report alleged to have been submitted by the fourth respondent alleging misuse of funds granted by the 13th Finance Commission for the years 2014-15 and 2015-16 including the funds of Rajiv Gandhi Panchayatraj Swastikarna Abhiyan (RGPSA). The petitioner submitted his explanation on 17.05.2017 denying the allegation of misuse of funds and giving explanation with regard to utilisation of funds for proper purposes. He also stated that the works were recorded in the Grampanchayat records and they can be verified. When an order was passed by the second respondent on 02.08.2017 suspending the petitioner from the post of Sarpanch for a period of three months, this Writ Petition is filed.

Learned counsel for the petitioner submits that the copy of the report submitted by the fourth respondent was not furnished to the petitioner and the explanation of the petitioner was not considered by the second respondent before passing the impugned order.

It is clear from the impugned order that after submission of explanation by the petitioner, a report was called from the Divisional Panchayat Officer and on the basis of the report submitted by the Divisional Panchayat Officer on 23.06.2017 the impugned order was passed without considering the explanation submitted by the petitioner on 17.05.2017. It is incumbent upon the second respondent to supply copy

of the report, which forms the basis for issuance of show cause notice, to the petitioner and the explanation of the petitioner should have been considered before passing the final order. Since both the issues were not complied with, the impugned order passed by the second respondent suffers from violation of the principles of natural justice.

In view of the same, the impugned order is set aside and the matter is remanded to the second respondent for taking action in accordance with law.

The Writ Petition is, accordingly, allowed. There shall be no order as to costs.

As a sequel thereto, the miscellaneous petitions pending in this Writ Petition, if any, shall stand closed.

Date: 23.08.2017
Nsr

A. RAMALINGESWARA RAO, J

