

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.29464 of 2016

Date: 15.03.2017

Between:

Vepada Pakeer Venkata Trinadh, S/o Satyanarayana,
Aged 38 years, Mandal Coordinator, Saakshar Bharath,
Adult Education Department, Devarapalli Mandal,
Visakhapatnam District, r/o. Devarapalli Mandal,
Visakhapatnam District.

.....Petitioner

and

The Mandal Parishad Development Officer, Devarapalli
Mandal, Visakhapatnam District and others.

.....Respondents



The Court made the following:

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ORDER:

Petitioner was appointed as Mandal Coordinator on honorarium of 2,000/-, by order dated 14.12.2010. Till the order of termination was issued, impugned in the writ petition, he continued to work. Petitioner challenges the order of termination in this writ petition.

2. The principal ground of challenge against said order of termination is that order of termination is on the allegation of misconduct and, therefore, it is a stigmatic order and prior to passing of such order, no notice or opportunity was afforded to the petitioner. Learned counsel for petitioner further contended that it appears an enquiry was conducted behind his back and based on the said report, impugned order was passed. Alleging that the termination order was not preceded by notice and opportunity to petitioner, specific averments are made in paragraph-5 of the affidavit filed in support of the writ petition.

3. In the counter-affidavit filed on behalf of the 1st respondent, there is no denial of said allegation. In paragraph-5 of the counter-affidavit, it is stated that having received complaint against the petitioner, Sri K.Sugunakara Rao, Assistant Director, was appointed as Enquiry Officer and said Assistant Director submitted the report and based on the findings of the Enquiry Officer, order of termination was made. Though counter-affidavit refers to the report of Assistant Director and the consequential decision taken, no documents are enclosed to the counter-affidavit.

4. It is apparent from the reading of the order that order is passed terminating the service of the petitioner on the allegations leveled

against therein. Therefore, it is not a termination simplicitor, but termination on allegation of misconduct and is stigmatic. No such order, which has civil and evil consequences, can be passed without observing due opportunity of hearing. Petitioner was appointed on 14.12.2010 and there is no tenure fixed for such appointment and petitioner would have continued, but for the order of termination.

5. On a bare perusal of the impugned order, it is clear that the order was passed on account of the allegations made against the petitioner, which were got enquired into by appointing Sri K.Sugunakara Rao, Assistant Director, as Enquiry Officer. The order impugned is silent as to whether Enquiry Officer gave opportunity to the petitioner before he submitted his report. Counter-affidavit is also silent on affording of such opportunity to the petitioner.

6. As there is no denial and no other material is placed on record to dispute the contention of the petitioner and on bare reading of the order, it is clear that there was no prior notice or opportunity afforded to the petitioner, the order impugned is not sustainable and is accordingly set aside. Writ petition is allowed.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

JUSTICE P.NAVEEN RAO

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