

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.10418 OF 2008

ORDER:

This writ petition is filed challenging the order dated 26-04-2008 in proceedings No.1523/07-B1(Pts), wherein the 3rd respondent-District Collector passed orders stating that the Government has dismissed the appeal petition filed by the petitioner removing Sarpanch, Yellareddiguda, Narketpally Mandal and also observed that the proceedings No.1523/07—B1(Pts)-1, 2 dated 29-12-2007 were confirmed and the petitioner was directed to handover complete charge of Sarpanch to Upasarpanch and the Mandal Parishad Development Officer, Narketpally was directed to act as per orders of recovery.

Learned counsel for the petitioner submits that the 2nd respondent passed orders dated 08-02-2008 confirming the order of removal dated 29-12-2007 in proceedings No.1523/07-B1(Pts)-1, 2, which were set aside in WP.No.3742 of 2008 and remanded the matter back to the 2nd respondent. But the 2nd respondent has not passed orders. But the 3rd respondent by referring to G.O.Rt.No.512, dated 28-03-2008 of Panchayat Raj and Rural Development Department confirmed his earlier order dated 29-12-2007, though said G.O.Rt pertains to orders passed in the revision filed by the petitioner in respect of recovery ordered against him,

as such, the same is without application of mind. He also submits that when WP.No.8046 of 2008 is filed and the same is pending against recovery ordered vide proceedings dated 29-12-2007 is confirmed in G.O.Rt.No.512 dated 28-03-2008 of Panchayat Raj and Rural Development and when the same is stayed on 15-04-2008 directing the respondents therein not to recover an amount of Rs.4,70,408/-, ordering the Mandal Parishad Development Officer (MPDO), Narketpally for recovery by the 3rd respondent is also without application of mind and contrary to stay granted by this Court on 15-04-2008. Learned counsel for the petitioner also says in pursuance to the remand order in WP.No.3742 of 2008, no orders are passed either by the 1st respondent or the 2nd respondent. As such the impugned order is without any application of mind and without jurisdiction.

Heard learned Assistant Government Pleader for Panchayat Raj.

The fact that no orders are passed in pursuance to the remand order passed by this Court in WP.No.3742 of 2008 is not disputed in the counter filed by the respondents. Once the order passed by the 2nd respondent is set aside and no further orders are passed after remand, the 3rd respondent could not have confirmed his own order dated 29-12-2007 by way of impugned order and also directing MPDO to act as per earlier recovery orders

when the recovery is stayed in WP.No.8046 of 2008 filed by the petitioner which is pending, is also without application of mind. In view of the same, the impugned order is liable to be set aside and more so, the term of the office of Sarpanch held by the petitioner also expired and on that ground also the challenge to the order passed by the District Collector removing the petitioner vide proceedings dated 29-12-2007 need not gone into and by virtue of Section 249 (3) of the Andhra Pradesh Panchayat Raj Act, the petitioner will not suffer any disqualification. In view of the same, the impugned order is set aside.

Accordingly, the writ petition is allowed. There shall be no order as to costs. As a sequel to the disposal of this petition, miscellaneous petitions, if any, pending shall stand closed.

A.RAJASHEKER REDDY,J

13-07-2017

Nvl

