

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

WRIT PETITION No.5478 OF 2017

ORDER:

This writ petition is filed, under Article 226 of the Constitution of India, for the following relief:

“to issue appropriate writ or order or direction more particularly one in the nature of writ of mandamus declaring the action of the 1st respondent in not disposing of the appeal filed by the petitioner against the Recovery proceedings passed by the 2nd respondent in vide Roc.No.6178/2015/A5, dt.29-11-2016 under Sec.265 of A.P.Panchayat Raj Act, as wholly illegal arbitrary and in violation of Principles of natural justice and consequently direct the respondents 2 to 4 not to take any coercive steps in pursuance of the order passed by the 2nd respondent in Roc.No.6178/2015/A5, dt.29- 11-2016 in the interest of justice.”

2. Heard the learned counsel for the petitioner and learned Government Pleader for Panchayat Raj for the respondents.

3. According to the petitioner, he got elected as Sarpanch of Diwancheruvu Gram Panchayat, Rajanagaram Mandal, East Godavari District, in the elections held in the month of October, 2014. Followed by show-cause notice and the explanation offered by the petitioner herein, the District Collector, East Godavari, passed an order vide Roc.No.6178/2015/A5, dated 29.11.2016, under sub

section (2) of Section 265 of A.P.Panchayat Raj Act, 1994, ordering recovery of an amount of Rs.73,70,035/- from the petitioner herein.

4. As against the said order of recovery, the petitioner herein filed an appeal under Section 265(3) of A.P.Panchayat Raj Act, 1994 and along with the said appeal, he also filed an application seeking stay of further proceedings pursuant to the order of District Collector, dated 29.11.2016. According to the learned counsel, the said appeal was filed by the petitioner on 05.01.2017. It is the submission of the learned counsel for the petitioner that no orders have been passed either on the stay application or in the appeal filed by the petitioner herein. It is further submitted that pending appeal before the State Government, now, the respondent authorities are actively contemplating to take consequential action pursuant to the order of the District Collector, dated 29.11.2016. According to the learned counsel for the petitioner, if it is permitted, the petitioner herein will be put to irreparable loss and hardship.

5. Having heard the learned counsel for the petitioner and in view of the pendency of appeal filed by the petitioner against the order of District Collector, dated 29.11.2016, this Court is of the considered opinion that the ends of justice would be served, if the 1st respondent is directed to pass appropriate orders in the appeal dated 05.01.2017, filed by

the petitioner herein against the order of the District Collector, dated 29.11.2016, by fixing some timeframe.

6. For the aforesaid reasons, this writ petition is disposed of, directing the 1st respondent to pass appropriate orders on the appeal dated 05.01.2017, filed by the petitioner herein against the order of the District Collector, dated 29.11.2016, within a period of two months from the date of receipt of a copy of this order. Till such exercise attains finality, no coercive action shall be taken against the petitioner herein pursuant to the order of the District Collector, vide Roc.No.6178/2015/A5, dated 29.11.2016, ordering recovery.

7. Miscellaneous petitions pending consideration, if any, in this case shall stand closed in consequence. No order as to costs.

22.02.2017
SS

A.V.SESHA SAI, J