

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No. 29926 of 2017

ORDER:

Petitioner was elected as Sarpanch of Chinthaparthi Gram Panchayat in 2013. While so, the Upa-Sarpanch of the Gram Panchayat lodged a complaint against the petitioner and respondent No.4 stating that the petitioner misappropriated the funds of the Gram Panchayat during the financial years 2013-14, 2014-15 and 2015-16, bringing it to a total sum of Rs.15,22,883/-. Respondent No.3-District Panchayat Officer, Chittoor, in turn, passed an order on 27.05.2017 suspending the cheque drawing powers for a period of six months as per Rule 42 (1) (3) of the Rules framed under G.O.Ms.No.30, dated 20.01.1995. Challenging the said order, the present writ petition is filed.

Learned counsel for the petitioner submits that against the order impugned, the petitioner filed an appeal before respondent No.2-District Collector, Chittoor and no orders have been passed.

Rule 42 of the Rules framed under G.O.Ms.No.30, dated 20.01.1995, relating to certain taxes and other lodging of moneys received by the Gram Panchayat and payment of money from the Gram Panchayat fund, reads as follows:

“42(1)The District Panchayat Officer concerned may, for sufficient reasons to be recorded in writing prohibit by an order any Sarpanch from drawing the moneys of the Gram Panchayat for such period as may be specified in such order.

Provided that no such order shall be passed unless opportunity of making representation has been given to the Sarpanch concerned.

Provided further that the District Panchayat Officer may issue an interim direction to the Sarpanch not to draw the moneys of the Gram Panchayat pending the exercise of his powers under this sub-rule.

(2) Any Sarpanch aggrieved by an order passed by the District Panchayat Officer concerned under sub-rule (1) may prefer an appeal in writing to the District Collector concerned within seven days of the receipt of the order and the decision of the District Collector thereon shall be final.

(3) Every order passed under sub-rule (1) shall specify the name of the person or the authority who shall draw the moneys of the Gram Panchayat during the period during which the Sarpanch is prohibited from drawing such moneys.

(4) A copy of every order passed under sub-rule (1) or sub-rule (2) shall be communicated to all banks and treasuries in which the moneys of the Gram Panchayat are lodged.

(5) On and from the date of receipt of such order by any bank or treasury, no payment shall, for the period of specified in such order, be made to the Sarpanch who is prohibited by such order from drawing the moneys of the Gram Panchayat.”

A reading of the impugned order indicates that the same was passed as a substantive punishment.

Learned counsel for the petitioner submits that no opportunity was given to the petitioner before passing the impugned order and though respondent No.3 has got power to pass an order for a specified period, he passed the impugned order without hearing the petitioner which is bad in law.

It is clear that the impugned order prohibiting the drawal of funds by the petitioner was passed for a period of six months

pending further enquiry with regard to the allegations. Now, three months have elapsed.

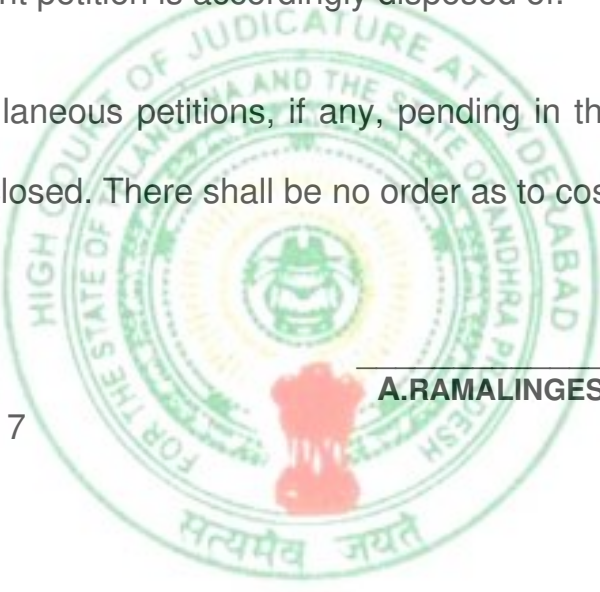
In view of the above, it is open to the petitioner to submit her explanation pursuant to the impugned order, within 15 days from the date of receipt of a copy of this order and after receiving the same, respondent No.3 shall pass orders within one month thereafter after giving opportunity to the petitioner to prove her case.

The writ petition is accordingly disposed of.

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

Dt:12.09.2017

kdl

**A.RAMALINGESWARA RAO,J**

