

HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION No.23390 OF 2006

Date 22.11.2017

Between:
Srinivas Goud.

... Petitioner

AND

The District Collector (PTS) Wing, Mahaboobnagar and
others.

.....Respondents



HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION No.23390 of 2006

ORDER:

The Writ Petition is filed questioning the proceedings dated 13.10.2006 of respondent No.1 proposing to recover a sum of Rs.11,98,800/- by launching criminal prosecution against the petitioner under Section 409 IPC.

Brief facts of the case, according to the petitioner, are that the petitioner was elected as a Sarpanch, Palem Gram Panchayat, Bijnepally Mandal, Mahaboobnagar District; during the period 2005-2006, the Government of A.P. evolved a scheme viz. "Individual Sanitary Latrines"; as per the scheme, if the individuals construct lavatories by themselves, they be supplied rice of 2 ½ quintals for one unit by the Mandal Parishad Development Officer; and the duty of Sarpanch was to prepare list of beneficiaries who wish to construct lavatories. The petitioner was issued impugned proceedings dated 13.10.2006 alleging misappropriation of rice allotted under "Individual Sanitary Latrines" programme, and recovery of value of rice from five persons amounting to Rs.11,98,800/-, and Rs.2,39,760 towards his share. While respondent No.3 is authorized to recover amount under the Revenue Recovery Act, respondent No.2 is authorized to launch criminal prosecution under Section 409 IPC. However, the impugned proceedings was issued without issuing any show cause notice to the petitioner. Hence the writ petition.

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

This Court, while ordering notice before admission on 10.11.2006, suspended the impugned proceedings of respondent No.1 dated 13.10.2006 seeking recovery of Rs.2,39,760/- from the petitioner. When the respondents filed WVMP.No.4141 of 2009 seeking vacation of the suspension order, this Court made the interim order absolute and dismissed the vacate petition.

The main contention of the learned counsel for the petitioner is that, without issuing any show cause notice, the impugned proceedings dated 13.10.2006 has been passed.

Learned Government Pleader for Panchayat Raj was asked to produce the record. She made available Xerox copy of the record.

The record produced by the learned Government Pleader for Panchayat Raj does not contain show cause issued to the petitioner. As no show cause notice was issued to the petitioner, the impugned proceedings of respondent No.1 dated 13.10.2006 is set aside. Respondent No.1 is directed to issue fresh show cause notice to the petitioner fixing time for submission of explanation; and, on receipt of explanation from the petitioner, respondent No.1 shall pass orders thereon in accordance with law.

The Writ Petition is, accordingly, allowed. However, in the circumstances, without costs.

As a sequel, miscellaneous petitions pending, if any,
shall stand closed.

KONGARA VIJAYA LAKSHMI, J

Dt:22.11.2017
usd

