

THE HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.23848 of 2009

ORDER:

Heard learned counsel for the petitioner, learned Government Pleader for Panchayat Raj and Rural Development and perused the records.

2. The present Writ Petition came to be filed seeking issuance of writ of Certiorari calling for the records relating to impugned proceedings Poc.No.236/ 2009, dated 05.10.2009, issued by the second respondent against the petitioner in pursuance of the show cause notice dated 17.09.2009 and to hold the same as illegal and arbitrary.

3. The averments in the affidavit filed in support of the writ petition would show that the petitioner was appointed as Technical Assistant under A.P.Rural Employment Guarantee Scheme (A.P.R.E.G.S.) with effect from 27.10.2006 and she was allotted to Pedamandyam Mandal. It is averred that ever since her appointment as Technical Assistant, she has been discharging her duties with utmost care and caution without any adverse remarks. After the appointment of the petitioner, the social audit committee conducted inspection and submitted a report stating that there are no irregularities against her. It is stated that while the petitioner was on maternity leave from 26.05.2009 to 26.09.2009, the social audit inspection was again conducted in Pedamandyam Mandal for the period 20.08.2009 to 31.08.2009, under the works executed under employment guarantee scheme. The social audit reported some irregularities alleged to have been committed by the Technical Assistants and Field Assistants. The audit report discloses irregularities to the extent of Rs.83,29,780/- said to have been committed by the Technical Assistants and Field

Assistants. It is stated that a show cause notice dated 17.09.2009 came to be issued directing the petitioner to submit her explanation within fifteen days. Pursuant thereto the impugned order came to be passed directing the petitioner to pay an amount of Rs.14,65,447/-. Challenging the action of the respondents in directing the petitioner to pay the said amount, the present writ petition came to be filed.

4. The main ground urged by the petitioner is that the impugned order came to be passed without considering the explanation submitted by the petitioner to the said show cause notice. On the other hand, counter came to be filed by the respondents wherein it has been stated that the show cause notice dated 17.09.2009 was served on the petitioner and she submitted her explanation on 17.09.2009 itself. Being not satisfied with the explanation given by the petitioner, the first respondent addressed a letter to the Tahsildar, Peddamandyam on 17.09.2009 with a direction to recover the amount under Revenue Recovery Act. Pursuant thereto, the impugned order dated 05.10.2009 came to be issued to the petitioner.

5. The material placed before the Court would show that the impugned show cause notice dated 17.09.2009 was issued from the office of District Water Management Agency (DWMA), Chittoor which was said to have been served on 17.09.2009. An explanation was also submitted on 17.09.2009 itself. Even assuming that the petitioner attended to her work on that day, she was placed at Peddamandyam Mandal, which is far away from Chittoor. Therefore, the question of serving show cause notice and submission of reply on the same day appears to be quite improbable. On the other hand, the averments in the counter affidavit would show that the first respondent directed the Tahsildar to take appropriate proceedings for recovery of the amount on 17.09.2009 itself which also appears to be strange. From the above, it is appears to be a case where the chain of

events took place on one day i.e. on 17.09.2009. Learned Government Pleader placed on record a show cause notice, in which there is no date on the first page but in the last page of the said show cause notice, some over writings are made changing the date from 17.09.2009 to 16.09.2009. The said document itself creates further doubts as to the manner in which the impugned order came to be passed.

6. In view of the above, without going into merits of the case and the complexity of the petitioner in the allegations made, the impugned order is set aside as violative of principles of natural justice. However, the respondent-authorities, if so desire shall issue fresh show cause notice calling upon the petitioner to submit her explanation within a reasonable time, in which event the petitioner shall submit her explanation and thereafter the respondent-authorities shall pass orders in accordance with law.

7. Accordingly, the writ petition is allowed. There shall be no order as to costs.

8. Miscellaneous petitions, pending if any, shall stand closed in the light of this final order.

JUSTICE C. PRAVEEN KUMAR

25.01.2017
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