

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

W.P.No.8342 of 2017

ORDER:

This writ petition filed under Article 226 of the Constitution of India challenges the show-cause notice issued by the District Collector (Pt.Wings)), Medchal-Malkajgiri District vide proceedings No.6901/2015-A3(Pts), dated 06.03.2017.

2. Heard Sri S.Satyam Reddy, learned Senior Counsel representing the learned counsel for the petitioner on record Smt.K.V.Rajasree and the learned Government Pleader for the Panchayatraj for the respondents.

3. Petitioner herein is the Sarpanch of Narapally Gram Panchayat, Ghatkesar Mandal, Medchal-Malkajgiri District. Earlier, petitioner herein filed W.P.No.3936 of 2017 before this Court questioning the order of suspension passed by the District Collector on 01.02.2017 under the provisions of Section 249 (6) of the A.P. Panchayat Raj Act, 1994. This Court, by way of an order dated 16.02.2017, allowed the said writ petition, setting aside the order of suspension dated 01.02.2017. Operative portion of the said order reads as under:

“15. For the aforesaid reasons, the Writ Petition is allowed setting aside the order of suspension, dated 01.02.2017, passed by the District Collector and the matter is remitted back to respondent No.2 for fresh consideration after giving notice and opportunity of hearing to the petitioner and after considering the explanation of the petitioner strictly in accordance with the provisions of Section 249 (6) of the Act. The report of the Divisional Panchayat Officer, which formed the basis for the District Collector to issue the show-cause notice, should also be made available to the petitioner herein. As a sequel, the

miscellaneous petitions, if any, shall stand disposed of.

There shall be no order as to costs.”

4. Pursuant to the above said order, the District Collector, by way of an order vide proceedings No.6901/2015/A3(Pts), dated 06.03.2017 permitted the petitioner to continue as Sarpanch of Grampanchayat, `Narapally. Simultaneously, on the same day, the District Collector also issued a show-cause notice bearing Order No.6901/15-A3 (Pts), dated 06.03.2017 under Section 249 (6) of the Panchayatraj Act, 1994, asking the petitioner to show-cause within a period of 15 days from the date of receipt of the notice. This writ petition is filed challenging the validity and legal sustainability of the said show-cause notice dated 06.03.2017.

5. According to the learned Senior Counsel representing the petitioner the impugned show-cause notice is highly illegal, arbitrary and unwarranted and violative of Article 14 of the Constitution of India. It is further submitted by the learned counsel that while taking action under the provisions of Section 249 of the Panchayatraj Act against the Sarpanch the authorities are required to be more careful since the Sarpanchs are the elected representatives of the people and any action would un-hesitatingly tarnish the image of the elected representatives.

6. On the contrary, it is submitted by the learned Government Pleader that strictly in accordance with the orders of this Court, the District Collector issued the impugned show-cause notice and also furnished a copy of the enquiry report submitted by the Divisional Panchayat Officer and there is no illegality nor there is any procedural infirmity in the impugned action.

7. There is absolutely no dispute with regard to the fact that while remitting the matter back to the District Collector, this Court in W.P.No.3936 of 2017 left it open for the respondents herein for fresh consideration of the

issue, after giving opportunity of hearing to the petitioner and this Court also directed the respondents to furnish a copy of the report of the Divisional Panchayat Officer which formed the basis for the District Collector to issue show-cause notice. Now by virtue of the impugned show-cause notice, the petitioner herein has been called upon by the District Collector while furnishing a copy of the Divisional Panchayat Officer. This Court does not find any illegality in the action of the second respondent in issuing the impugned show-cause notice under the provisions of Section 249 (6) of the Panchayatraj Act. It is open for the petitioner herein to submit his explanation to the show-cause notice which is impugned in the present writ petition.

8. For the aforesaid reasons, the writ petition stands dismissed, permitting the petitioner herein to submit explanation within a period of two weeks from the date of receipt of this order, and if any explanation is filed by the petitioner, the same to be considered and appropriate orders be passed in accordance with law, after giving notice and opportunity of hearing to the petitioner herein. . As a sequel, miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

Date:13.03.2017

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



W.P.No.8342 of 2017

Dated 13.03.2017

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