

The Hon'ble Sri Justice A.V.Sesha Sai

Writ Petition No.8332 of 2017

Date: 10.03.2017

Order:

This Writ Petition is filed for the following substantive relief:

“to issue a writ, order or direction, more particularly one in the nature of Mandamus, declaring the impugned Notice in R.O.C.No.243/2017G 4, dt.02.03.2017, issued by the 4th Respondent, as illegal, arbitrary, unconstitutional, principles of natural justice and discriminating and violative of the mandatory provisions of the Panchayat Raj Act, 1994 and also violation of Articles 14, 19 and 21 of the Constitution of India and consequently direct the 4th respondent to restore the Cheque power of the Petitioner forthwith.”

Heard learned Counsel for the petitioner, the learned Government Pleader for Panchayat Raj (AP) appearing for respondent Nos.1 to 5 and Mr.Ravi Cheemalapati, learned Standing Counsel for Gram Panchayat appearing for respondent Nos.6 and 7.

The petitioner herein is the Sarpanch of Bhattiprolu Grama Panchayat, Bhattiprolu Mandal, Guntur District. Show

cause notice issued by respondent No.4 *vide* Proceeding in ROC.No.243/2017/G.4, dated 02-03-2017, temporarily suspending the cheque power of the petitioner herein while calling for explanation is under challenge in the present Writ Petition.

It is submitted by the learned Counsel for the petitioner that under Rule 42 of the Rules notified *vide* GO.Ms.No.30, dated 20-01-1995, there cannot be any prohibition on the cheque power without stipulating the time limit. In support of the said contention, learned Counsel has placed reliance on the judgment of this Court reported in **Somagani Venkata Subbamma vs. District Panchayat Officer¹**.

A copy of the said judgment is placed on record by the learned Counsel for the petitioner. In the said judgment, this Court, while dealing with Rule 42 of the Rules notified *vide* G.O.Ms.No.30, dated 20.01.1995, categorically held that the cheque power cannot be withdrawn for unlimited period and that the period needs to be stipulated. At Paragraph 9 of the said Judgment, this Court held as under:

¹ 2006 (4) ALD 1

“9. In this case, the petitioner herein was prohibited from drawing the Gram Panchayat funds permanently and completely, which is not contemplated under Rule 42(1) of the Rules. For this reason, the writ petition has to be allowed.”

In view of the above reported judgment of this Court and for the reasons recorded therein, the present Writ Petition is allowed setting aside the notice bearing Roc.No.243/2017G 4, dated 02-03-2017, to the extent of withdrawing the cheque power of the petitioner only . However, it is open for the respondents to take appropriate action against the petitioner in accordance with law.

As a sequel, Miscellaneous Petitions, pending if any, stand disposed of as infructuous.

(A.V.Sesha Sai, J)

Dt: 10th March, 2017
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