

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.7512 of 2017

Date: 23.02.2017

Between:

G.Giri Babu S/o Venkataiah, Aged about 40 years,
Occu: Senior Assistant, MLS Point, Thorrur village
and Mandal, Mahabubabad District (Warangal)

.....Petitioner

and

The State of Telangana, rep.by its Principal Secretary,
Revenue Department, Secretariat, Hyderabad and
others.

.....Respondents



The Court made the following:

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ORDER:

Petitioner is working as Mandal Revenue Inspector. Disciplinary action initiated against the petitioner resulted in imposing punishment of withholding of three annual grade increments with cumulative effect. Aggrieved thereby, petitioner preferred appeal. The appeal preferred against the decision of the Collector is to be considered by the Commissioner of Appeals, Office of the Chief Commissioner of Land Administration. During the absence of Commissioner of Appeals, Sri K.Harsha Vardhan, IAS, who was assigned responsibilities of Special Commissioner on Incharge basis from 21.11.2014 to 27.12.2014, considered the appeal preferred by the petitioner as if he was also Commissioner (Appeals) and passed orders modifying the punishment imposed against the petitioner to that of withholding of one annual grade increment without cumulative effect. It appears similar such orders were passed by the Incharge Special Commissioner. When this fact came to the knowledge of the Chief Secretary and Chief Commissioner of Land Administration, the Chief Secretary and Chief Commissioner of Land Administration by orders dated 29.04.2015, impugned, set aside the order of Incharge of Special Commissioner and directed the Commissioner (Appeals) to take necessary action for disposal of appeals.

2. Learned counsel for petitioner contends that order dated 29.04.2015 is *ex facie* illegal as this was not preceded by notice or opportunity of hearing and on that ground alone it is liable to be

set aside. Learned counsel for petitioner also submits that Chief Secretary and Chief Commissioner of Land Administration has no power or authority to pass such orders.

3. It is not in dispute that Sri K.Harsha Vardhan, IAS, was not assigned the responsibilities of the post of Commissioner (Appeals) during the relevant time, but he was only assigned responsibilities of Special Commissioner on Incharge basis. Thus, it was illegal on his part to consider appeal against the decision of the District Collector in exercise of disciplinary control over the petitioner and modifying the punishment. Thus, this order of Sri Harsha Vardhan is void *ab initio*.

4. It is not in dispute that order dated 29.04.2015 impugned in the present writ petition was passed without notice or opportunity and, therefore, on that ground it is liable to be set aside.

5. Accordingly, the order is set aside and matter is remitted to the Chief Secretary and Chief Commissioner of Land Administration for consideration of the matter after affording due opportunity to the petitioner. It is always open to the petitioner to raise all objections as warranted by law before the said authority. As even the order of Sri Harsha Vardhan, IAS, was illegal, till the issue is considered by the Chief Secretary and Chief Commissioner of Land Administration, the punishment imposed by the District Collector shall not be disturbed. The Chief Secretary and Chief Commissioner of Land Administration shall decide the matter, with prior notice to the petitioner, as expeditiously as possible, preferably within a period of four weeks from the date of receipt of copy of this order.

6. Writ Petition is allowed accordingly. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

JUSTICE P.NAVEEN RAO

Date: 22.03.2017
kkm



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