

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.29895 of 2017

ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed by the petitioner seeking to call for records in proceedings No.ST/01/DRDA/IGS/2016, Dated 25.01.2017, by the respondent No.3 and quash the same as being illegal, arbitrary and violative of Articles 14 and 16 of the Constitution of India and to consequently reinstate the petitioner into service as a field assistant under the Mahatma Gandhi National Rural Employment Guarantee Scheme for Bikhumalla Gram Panchayat.

2. Heard Sri B. Vijaysen Reddy, learned counsel for the petitioner, learned Government Pleader for Panchayat Raj for the 1st respondent and Smt. R. Padma Rekha, learned Special Standing Counsel for respondents 2 to 4. Perused the material available on record.

3. The case of the petitioner is that the petitioner was appointed as a Field Assistant under the Mahatma Gandhi National Rural Employment Guarantee Scheme on contract basis by the 3rd respondent on 23.08.2007 and the petitioner's employment was being renewed periodically and the petitioner's last renewal was on 07.01.2015 *vide* proceedings RC.No.E1/3137/HR/2015. It is further case of the petitioner that the Sub-Inspector of Police, Nuthankal Police Station, sent a letter *vide* Lr.No.C.S.250/S1-S4/2016, dated 13.10.2016, stating that the petitioner was involved in the murder of her husband and F.I.R.No.173 of 2016 was registered on 04.10.2016 and that the 4th respondent has also sent a communication to the 3rd respondent on 13.10.2016 stating that the petitioner has been

arrayed as A-1 in the above said F.I.R. The grievance of the petitioner is that basing on the letter of the Sub-Inspector of Police, Nuthankal Police Station, and also on the communication sent by the 4th respondent, the 3rd respondent issued the impugned proceedings No.ST/01/DRDA/IGS/2016, dated 25.01.2017, whereby the petitioner was removed from service on the ground that she is involved in criminal case.

4. Learned counsel for the petitioner submitted that the petitioner was in judicial custody from 06.10.2016 to 02.12.2016 and as such she has not received any notice and in view of the same, the impugned order is in violation of principles of natural justice.

5. On the other hand, Smt. R. Padma Rekha, learned Special Standing Counsel for respondents 2 to 4 submits that the petitioner was sent notice, dated 31.10.2016, and that since there was no reply, the impugned order has been passed.

6. It is to be seen that the petitioner was involved in criminal case and she was in judicial custody from 06.10.2016 to 02.12.2016. In view of the same, notice could not have been served on the petitioner.

7. In view of the same and taking into consideration the fact that notice was not served on the petitioner, which is in violation of principles of natural justice, the impugned order, dated 25.01.2017, passed by the 3rd respondent is liable to be set aside.

8. Accordingly, the Writ Petition is allowed by setting aside the impugned proceedings No.ST/01/DRDA/IGS/2016, dated 25.01.2017, passed by the 3rd respondent. However, the competent

authority shall issue a fresh notice to the petitioner once again and after giving an opportunity of hearing to the petitioner, the competent authority shall pass an appropriate order, as expeditiously as possible, in accordance with law, more preferably within a period of four (4) weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

As a sequel to the disposal of this writ petition, miscellaneous petitions, if any, pending shall stand closed.

A.RAJASHEKER REDDY, J

Date: 15th September, 2017

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