

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.27739 OF 2017

ORDER:

It is the case of the petitioner that he was working as Panchayat Secretary of Navipet Gram Panchayat from July, 2014 onwards. One Smt.E.Suvarna W/o.Sanjeeva Reddy and Smt.Khader Bee, W/o.Sd.Anwar submitted application for building permission while enclosing registered sale deed bearing No.13455/06, dated 15-11-2006 and document No.894/2013, dated 05-02-2013 and the petitioner approved the building plan submitted by them. That the permission accorded by the petitioner is a Government land (Laoni patta) and hence the permission granted is illegal and accordingly, Divisional Panchayat Officer, Nizamabad submitted preliminary report and basing on the same, the 3rd respondent passed order dated 27-06-2016 placing the petitioner under suspension. Aggrieved by the same, the petitioner filed W.P.No.11192 of 2017 before this Court and this Court by order dated 30-03-2017 suspended the impugned order of suspension. On receipt of said order, the District Panchayat Officer vide memo bearing No.B1/476/2016, dated 25-05-2017 communicated the impugned order of the 2nd respondent, which shows the action of the 3rd respondent in suspending the petitioner is

ratified. As can be seen from the order of the 2nd respondent that the action of 3rd respondent, District Collector, Nizamabad in issuing suspension order to the petitioner is hereby ratified. When the suspension order itself is *void ab initio*, it cannot be ratified. As such, the present writ petition is filed.

Learned counsel for the petitioner submits that the 3rd respondent has no jurisdiction to pass order of suspension and the same was suspended by this Court on 30-03-2017 in WPMP.No.13905 of 2017 in WP.No.11192 of 2017. He further submits that though the 2nd respondent has no power to ratify the same, she ratified the same subsequently by way of impugned order, which is *void ab initio*. As such, the same may be set aside. Learned counsel placed reliance on the judgment of Apex Court in **the Marathwada University v. Seshrao Balwant Rao Chavan**¹ in support of his contention.

Heard learned Assistant Government Pleader for Panchayat Raj and Rural Development.

The order of the 3rd respondent dated 27-06-2016 was already suspended by this Court in 30-03-2017 in WPMP.No.13905 of 2017 in WP.No.11192 of 2017 by observing that it is open for the competent authority to take action in accordance with law. The competent

¹ AIR 1989 Supreme Court 1582

authority instead of passing the order afresh, ratified the order of the 3rd respondent impugned in the earlier writ petition and issued the impugned order, which is *void ab initio*. The Supreme Court in the judgment referred to *supra* held as under:

“These principles of ratification, apparently do not have any application with regard to exercise of powers conferred under statutory provisions. The statutory authority cannot travel beyond the power conferred and any action without power has no legal validity. It is *ab initio* void and cannot be ratified.

These observations again are of little assistance to us since we have already held that there was no prior delegation of power to the Vice-Chancellor to take disciplinary action against the respondent. There was no subsequent delegation either. Therefore, neither the action taken by the Vice-Chancellor, nor the ratification by the Executive Council could be sustained.”

In view of the same, the impugned order is set aside. However, this will not preclude the competent authority from taking appropriate action and passing appropriate orders in accordance with law.

Accordingly, the writ petition is allowed to the extent indicated above. As a sequel to the disposal of this petition, miscellaneous petitions, if any, pending shall stand closed.

A.RAJASHEKER REDDY,J

22-08-2017

Nvl



