

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.35074 OF 2017

ORDER:

Heard learned counsel for the petitioner. Though no counter affidavit is filed, the record in the case is called for from the office of the fourth respondent and on the basis of the record, this writ petition is being disposed of.

It is the case of the petitioner that he was discharging duties as Gazetted Head Master of the Zilla Parishad Secondary School, Duggandi, Warangal Rural District, and the senior-most Head Master would be kept in-charge of the office of the Mandal Resource Centre. Accordingly, the petitioner was placed in additional charge over the Mandal Resource Centre. He has to take care of Mid Day Meals for seven schools situated in Duggandi Mandal. About thirty elementary schools are also situated in the same Mandal and he has to take care of both elementary schools and high schools. The cooking of the food for Mid Day Meals is carried out by each school separately, but salaries and wages pertaining to cooks and other staff are taken care by the Collector. He states that he is a subordinate officer working under the control of the District Educational Officer (DEO). There were some disputes with regard to payment of wages to the cooks and they filed W.P.No.28693 of 2016. The petitioner filed a counter affidavit in the said writ petition. The DEO in his letter dated 07.04.2017 instructed the petitioner to pay the cooking cost and honorarium to the present working group for their worked period duly obtaining approval by the Mandal Revenue Officer, Duggandi Mandal. He appears to have addressed letters on 16.02.2016 and 15.03.2017 stating that a new group was appointed as per the resolution of the Sarpanch, Nachanapalli and endorsed by the Mandal Revenue Officer, Duggandi Mandal, but not by the Mandal Legal committee. In view of the same, the

DEO instructed him to obtain approval from the Mandal Revenue Officer. The Sarpanch of the Gram Panchayat passed a resolution on 12.07.2016 terminating the old group of cooking members, namely, Annapurna etc., and selected a new group to run the Mid Day Meal Cooking Programme. The District Collector, Warangal, verified the issue and permitted the Mandal Educational Officer, Duggandi for payment of cooking cost and honorarium to the new group, contrary to law and he sought clarification from the Mandal Revenue Officer, Duggandi. Since the Mandal Revenue Officer has not passed any orders, and only the MPDO issued a clarification, he did not pay the cooking charges. In that connection, the petitioner was placed under suspension by proceedings of the third respondent, dated 07.10.2017. Challenging the same, the present writ petition is filed.

Admittedly, the petitioner is the Mandal Resource Person under the control of the District Educational Officer. The District Educational Officer in his letter dated 07.04.2017 clearly stated that both the groups shall be paid honorarium for the period they worked but the petitioner took a stand that the termination of the old group was not according to law and consequently, the appointment of the new group is also illegal. In those circumstances, he refused to pay, which resulted in suspending the petitioner from service. The petitioner ought not to have taken an independent decision when there are clear instructions from the superior officers. In those circumstances, the third respondent thought it fit to keep the petitioner under suspension, pending disciplinary proceedings.

In view of the *prima facie* case against the petitioner as admitted by him in the affidavit with regard to non-payment of honorarium to the new group, which cooked food from August, 2016 onwards, this Court does not see any ground to interfere with the order of suspension and the legality or otherwise of the action of the petitioner, if any, is to be enquired into by the

competent authority. Since the disciplinary proceedings are pending with the third respondent, the third respondent is directed to complete the disciplinary proceedings after giving due opportunity to the petitioner, as expeditiously as possible, but not later than three months from the date of receipt of a copy of this order.

The writ petition is accordingly disposed of. Consequently, miscellaneous petitions, if any pending, in this writ petition, shall stand closed. There shall be no order as to costs.

A.RAMALINGESWARA RAO, J

23.11.2017
pln

