

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.38358 OF 2017

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed, seeking the following relief:

“to issue a Writ, order or direction more particularly one in the nature of writ of Certiorari declaring the proceedings of 3rd respondent issued vide Rc. No: 4357/2016/A2 dated 00-12-2016 vide file No: DPO -MOF/3/2016-JA(A5)-DPOEG as void as no such power is vested with the 3rd respondent to issue show cause notice under section 265 (1) of A.P. Panchayat Raj Act and it is in violation of Rule 42 (1) of Lodging of Money received by the Grama Panchyat and payment of Moneys from the Grama Panchayat Fund of Panchayat Raj Act hence the same is liable to be quashed.”

2. Heard learned counsel for the petitioner and the learned Government Pleader for Panchayat Raj appearing for respondents 1, 3 to 5 and learned Assistant Government Pleader for Revenue appearing for respondent No.2.

3. As seen from the record, it appears that earlier when the cheque power of the petitioner was suspended, the petitioner filed W.P.No.19837 of 2017 and this Court allowed the said Writ Petition by setting aside the proceedings and revived the cheque power of the petitioner for a period of three (03) months, with a direction to pass final orders within four (04) weeks from the date of receipt of a copy of that order. In the affidavit filed in support of the petition, it is stated that now the respondents have issued the impugned show cause notice, dated Nil.12.2016, as to why the cheque power of the petitioner should not be cancelled for a period of six months. It is stated that no power is vested with the 3rd respondent and as per G.O.Ms.No.30,

dated 20.01.1995, the cheque power of the petitioner cannot be cancelled beyond three months.

4. Learned counsel for the petitioner submits that earlier when the cheque power of the petitioner was cancelled, the petitioner filed W.P.No.19837 of 2017 and this Court set aside proceedings and revived the cheque power of the petitioner and, therefore, the present show cause notice cannot be issued and hence, prays to set aside the impugned show-cause notice.

5. On the other hand, learned Assistant Government Pleader submits that the petitioner filed W.P.No.19837 of 2017 and this Court allowed the same with a direction to pass final orders, as such issuance of show-cause notice cannot be faulted.

6. It is to be seen, the direction in the earlier writ petition is to pass final orders within four weeks from the date of that order. But, the respondents in stead of passing the final orders, they have again issued show cause notice. It appears that the impugned show-cause is issued without application of mind, as such the same is liable to be set aside.

7. Accordingly, the Writ Petition is allowed setting aside the show-cause notice, dated Nil.12.2016 and granting liberty to the respondents to pass orders in show-cause, dated Nil.12.2016, as directed by this Court in W.P.No.19837 of 2017, after giving opportunity of hearing to the petitioner, in accordance with law.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed. No costs.

A.RAJASHEKER REDDY, J

NOVEMBER 20, 2017

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Date: 20.11.2017

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