

HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

WRIT PETITION No.42818 OF 2017

ORDER:

This Writ Petition is filed assailing proceedings No.1663/17-A1 (Pancha)-2, dated 04.12.2017, whereby and whereunder, respondent No.2 suspended the petitioner from the post of Sarpanch for a period of three months on the allegation that she has granted illegal construction permissions.

2. Sri S. Satyam Reddy, learned Senior Counsel appearing for the petitioner, submits that the report, which is relied on in the impugned proceedings, is not supplied to the petitioner and the same is in violation of principles of natural justice, as laid down by this Court in **D. Sathi Reddy v. Commissioner, Panchayat Raj, A.P., Hyderabad and others**¹. He also submits that there is no formation of opinion as envisaged under Section 249 (6) of the A.P. Panchayat Raj Act, 1994 (for short, 'the Act').

3. Learned Assistant Government Pleader for Panchayat Raj appearing for the respondents submits that the judgment in **D. Sathi Reddy**'s case (supra) is not applicable in the case of suspension order passed under Section 249 (6) of the Act and in support of her contentions, she relied on the judgement, dated 06.04.2017, rendered by a Division Bench of this Court in W.A.No.419 of 2017.

¹ 1999 (5) ALT 535 (D.B.)

4. So far as violation of principles of natural justice is concerned, it is to be seen that the learned single Judge, who allowed W.P.No.6087 of 2017 on 14.03.2017, by relying on **D. Sathi Reddy's** case (supra) has set aside the order of suspension passed under Section 249 (6) of the Act. But, the same was reversed by the Division Bench of this Court in W.A.No.419 of 2017 holding that the said judgment cannot be relied upon in a case of suspension under Section 249 (6) of the Act, as it is only pending further enquiry, and while setting aside the order of the learned single Judge, the Division Bench of this Court directed the District Collector to take action in terms of Section 249 (1) of the Act and pass final orders before the initial period of suspension of three months expires.

5. In view of the same, challenge on the ground of violation of principles of natural justice cannot be accepted. On the other hand, suspension of the petitioner is only a temporary measure, which is resorted to, pending passing of final orders under Section 249 (1) of the Act. Even the petitioner admitted and acknowledged grant of permissions.

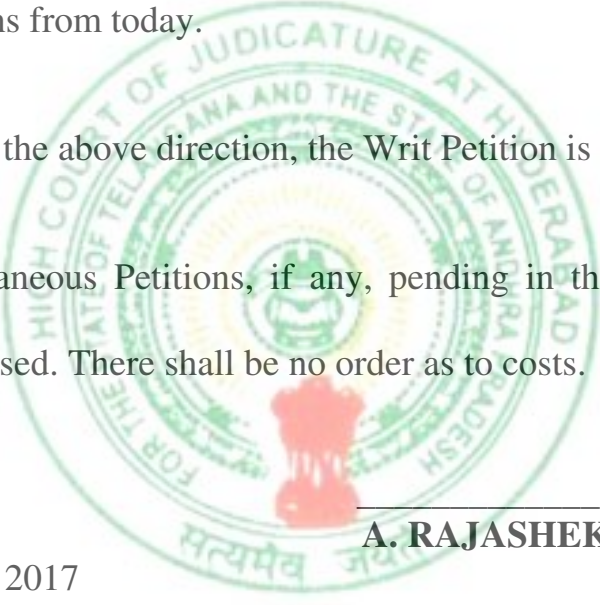
6. Further, learned counsel for the petitioner relied on the decision of the Honourable Supreme Court in **Ajit Singh and another v. Financial Commissioner and Secretary to Government and**

another² and submitted that no opinion is formed as envisaged under Section 249 (6) of the Act. But, in the impugned order, it is clearly held that the petitioner misused her position in granting permissions.

7. In view of the same, following the judgment in W.A.No.419 of 2017, this Court is not inclined to interfere with the impugned order of suspension. However, respondent No.2 is directed to pass final orders in terms of Section 249 (1) of the Act, however, within a period of three months from today.

8. With the above direction, the Writ Petition is disposed of.

Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed. There shall be no order as to costs.



A. RAJASHEKER REDDY, J

December 18, 2017

Note: Issue C.C. in four days.
B/O.MD

² (2009) 16 SCC 308