

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.42920 OF 2017

ORDER:

This Writ Petition is filed seeking writ of mandamus declaring the action of the 2nd respondent in exercising the powers purportedly under Section 249(1) of A.P. Panchayat Raj Act, 1994 (for short 'the Act') to remove the petitioner from the post of Sarpanch of Kothur Gram Panchayat, Mulugu Mandal, Siddipet District vide proceedings dated 27.11.2017, as illegal and arbitrary.

Heard learned counsel for the petitioner and learned Government Pleader for Panchayat Raj and Rural Development for respondents.

Learned counsel for the petitioner submits that in pursuant to the notice dated 15.11.2017 issued to the petitioner, she attended the office of 2nd respondent on 17.11.2017 at 11.00 A.M. Though the petitioner was present, without giving an opportunity of hearing, impugned order dated 27.11.2017 was passed removing the petitioner from the post of Sarpanch holding that she had allegedly misappropriated the funds of Gram Panchayat to a tune of Rs.15,56,631/-., after obtaining signatures of the petitioner on the blank papers, which is in violation of principles of natural justice. He submits that though the petitioner submitted explanation to the notice, without considering the same in proper perspective, the impugned order has been passed. He submits that with great

difficulty, the petitioner filed appeal through an Advocate along with stay petition on 11.12.2017.

On the other hand, learned Government Pleader for Panchayat Raj & Rural Development produced record, in which it is stated that is an endorsement of the District Collector that the petitioner was present and stated that after considering the explanation of the petitioner orders can be passed, as such, the impugned order has been passed.

Normally, this Court will not entertain the writ petition, when there is an alternative remedy and unless the impugned order is passed without jurisdiction or the same is in violation of principles of natural justice.

In this case, notice was issued to the petitioner and petitioner submitted explanation and after considering the same, impugned order has been passed.

Since statutory appeal is already preferred along with Stay Petition before the 1st respondent and same is pending, this Court is not inclined to go into the merits of the case at this stage. Hence, the 1st respondent is directed to consider the appeal along with stay petition filed by the petitioner and pass orders thereon, after issuing notice to the petitioner and also on the counsel for petitioner, within a period of two weeks from the date of receipt of a copy of this order. In case any vakalat is filed on behalf of petitioner, the 1st respondent is directed to permit the Advocate to represent the petitioner. It is also stated

by the learned counsel for petitioner that he was made to stand in que for hours together for filing the appeal.

In view of same, first respondent is directed to ensure that Advocates who are appearing in the cases are permitted to enter Secretariat for representing the cases in which they are appearing instead of asking them to stand in the que for long time.

With the above direction, this Writ Petition is disposed of. There shall be no order as to costs. As a sequel to the disposal of this petition, miscellaneous petitions, if any, pending shall stand closed.

26-12-2017
kvs



A.RAJASHEKER REDDY, J

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY



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Date: 26.12.2017

kvs



