

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.3468 of 2018

ORDER:

Heard Sri Ch.Samson Babu, learned counsel for the petitioner, learned Government Pleader for Social Welfare, appearing for the respondent Nos.1 to 5, and Sri K.Sarath, learned counsel for the seventh respondent.

According to the petitioner, she belongs to ST Valmiki community and is presently working as Sarpanch of Rampachodavaram Gram Panchayat. The District Collector, East Godavari District: Kakinada, by way of an order vide proceedings R.Dis.C5/M/390/2015, cancelled the caste certificate of the petitioner herein. Aggrieved by the said order of cancellation, passed by the District Collector, the petitioner herein filed a statutory appeal under Section 7 of the Act 16/1993. Along with the said appeal, she also filed a stay application on 31.01.2018. Pursuant to the order of the District Collector, cancelling the caste certificate of the petitioner herein, the District Panchayat Officer, East Godavari District: Kakinada issued a show cause notice, asking the petitioner herein to show cause as to why she should not be removed from the office of the Sarpanch under Section 14 (6) 20 (AA) and 22 (1) of the A.P.Panchayat Raj Act, 1894.

In the above background, the present Writ Petition is filed questioning the order of the District Collector, cancelling the caste certificate of the petitioner herein.

According to the learned counsel for the petitioner, the order impugned is highly illegal, arbitrary and violative of Article 14 of the Constitution of India besides being opposed to the very spirit and object of the provisions of the Act 16/1993. It is submitted that, even before communication of the order impugned in the Writ Petition, the District Panchayat Officer issued a show cause notice. It is the further submission of the learned counsel that the statutory appeal and the stay application are pending before the first respondent as on today and as a consequence of the order passed by the District Collector, the authorities are taking action for removal of the petitioner from the office of the Sarpanch. According to the learned counsel the said circumstances have prompted the petitioner herein to approach this Court under Article 226 of the Constitution of India.

On the other hand, it is submitted by the learned Government Pleader so also the learned counsel, appearing for the seventh respondent, that there is absolutely no illegality in the impugned action and, having filed the appeal before the State Government, it is not open for the petitioner to approach this Court under Article 226 of the Constitution of India.

The right of appeal is a substantive right and the petitioner has already availed the said remedy by way of filing appeal under Section 7 of the Act 16/1993. Admittedly, the said appeal filed against the impugned order and an application

seeking stay of the said order are pending consideration before the first respondent.

Having heard the learned counsel for the petitioner, the learned Government Pleader and the learned counsel for the respondent No.7, and keeping in view the pendency of the stay application and the appeal filed by the petitioner herein before the first respondent, under Section 7 of the Act 16/1993, this Court deems it appropriate to dispose of the Writ Petition with a direction to the first respondent to pass appropriate orders on the stay application, dated 31.01.2018, filed by the petitioner herein, seeking stay of the order passed by the District Collector, within a period of three weeks from the date of receipt of a copy of this order. Pending consideration of the stay application, no coercive action shall be taken against the petitioner herein. The first respondent-State Government shall also make endeavour to pass final order on the appeal, as expeditiously as possible.

Accordingly, the Writ Petition is disposed of. Miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

A.V.SESHA SAI,J

05th February, 2018

Note:

*Furnish C.C. of the order
within two days.*

*B/o
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