

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.4835 of 2018

O R D E R:

The Memo, dated 07.02.2018, issued by respondent No.1, granting stay of the proceedings, dated 11.01.2018, issued by respondent No.2 suspending the check drawing powers of respondent No.4, is challenged before this Court.

Learned counsel for the petitioner submits that the impugned Memo was issued in exercise of powers under Section 264 of the Panchayat Raj Act, 1994 (for short 'the Act') and a revision is not maintainable against the order, dated 11.01.2018, passed by respondent No.2 in exercise of powers under Section 249 of the Act. He further submits that in similar circumstances, this Court in W.P.No.35805 of 2016 *vide* order, dated 02.11.2016, set aside the impugned proceedings therein and remanded the matter to respondent No.1 for fresh consideration.

Learned Government Pleader for Panchayat Raj appearing for respondent Nos.1 to 3, on the other hand, submits that reference to a wrong provision cannot invalidate an act of an authority. She also placed reliance on the judgments of the Hon'ble Supreme Court in **State of Jharkhand Vs. Pakur Jagran Manch and others**¹ and **S.Mani Vs. Sangeetha Theatre and Others**².

In view of the respective submissions, the scope of consideration in the writ petition is limited. In normal

¹ (2011) 2 Supreme Court Cases 591

² (2004) 12 Supreme Court Cases 278

circumstances, if the petitioner is aggrieved by the orders made in favour of respondent No.4, he would have approached respondent No.2 seeking modification of the same by invoking Section 264 (3) of the Act within 90 days from the date of passing of such order. However, the issue whether a revision is maintainable or not cannot be gone into at this stage. Even assuming that respondent No.1 has no power to entertain a revision, admittedly, respondent No.1 has the power to entertain the appeal and the same is not disputed by the learned Government Pleader.

In those circumstances, the impugned Memo issued by respondent No.1 cannot be found fault with. At any rate, this Court is not inclined to delve into the merits of the impugned Memo as it is interim in nature.

Hence, the writ petition is disposed of, giving liberty to the petitioner to approach respondent No.1 seeking vacation or modification of the impugned Memo. As and when such application is filed, respondent No.1 shall pass appropriate orders within two weeks from the date of receipt of such application.

Miscellaneous petitions, if any, pending in this writ petition shall also stand disposed of. There shall be no order as to costs.

CHALLA KODANDA RAM, J

Dt:15.03.2018

Note: Issue cc in two days.
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