

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.6970 of 2018

ORDER:

In this Writ Petition, petitioner challenges the order, dated 11.01.2018 passed by the second respondent – District Collector (Panchayat Wing), Badradri Kothagudem District, Telangana, under Section 265(1) of the Andhra Pradesh Panchayat Raj Act, 1994 (for short 'the Act'), as adopted by the State of Telangana, with regard to the recovery of an amount of Rs.9,55,409/- from herself and one O. Devaraj, Ex. Panchayat Secretary.

It is the case of the petitioner that on an earlier occasion, when a notice was issued to her alleging misappropriation of amount to the tune of Rs.43,14,563/-, she submitted a detailed explanation, dated 13.12.2017, but, alleging that the respondents did not consider her explanation, she filed Writ Petition No.4194 of 2018 and this Court in view of the submission of the learned Government Pleader for Panchayat Raj that the order, dated 11.01.2018, which is impugned in the present Writ Petition, came to be passed by the second respondent with regard to the recovery of an amount of Rs.9,55,409/- from herself and one O. Devaraj, Ex. Panchayat Secretary, closed the said Writ Petition vide order, dated 14.02.2018 by giving liberty to her to avail the remedies in

accordance with law. It is her further case that in the impugned order, the second respondent without considering her specific objections and by ignoring her plea that the Panchayat Secretary is in fact, responsible for the alleged omissions and commissions, had fixed a liability on herself and another to the extent of Rs.9,55,409/- and therefore, she prays to set aside the impugned order.

Heard learned counsel for the petitioner.

Learned Government Pleader opposes the Writ Petition and submits that the allegations of the petitioner are in relation to the factual data and in view of Section 265(3) of the Act, the impugned order is appealable to the Government and thereby, prays for dismissal of the Writ Petition.

A perusal of the impugned order discloses that in the earlier show cause notice, the petitioner was alleged to have not accounted for a sum of Rs.43,14,563/-, but, in the revised show cause notice, the respondents had limited it to Rs.23,67,802/-. Thereafter, on consideration of the material placed before him, the second respondent reduced the liability of the petitioner and another, to a sum of Rs.9,55,409/-. In view of the same, this Court is of the *prima facie* opinion that it cannot be said that there is no application of mind or non-consideration of the

petitioner's explanation by the second respondent. It is to be noted that if there are any errors committed by the second respondent in passing the impugned order either on facts or in not taking into consideration certain material placed before him, the same can be corrected by the appellate authority in an appeal as essentially, the same would require an enquiry into the material. In other words, the relief, which the petitioner seeks in the present Writ Petition, can be granted by the appellate authority, who is more well-equipped to enquire into the minute details of the claims of the respective parties. Therefore, appeal is an effective alternative remedy.

In those circumstances, this Writ Petition is disposed of, by giving liberty to the petitioner to approach the appellate authority and seek appropriate relief by placing necessary material. As and when such appeal is filed by the petitioner, the same shall be disposed of by the appellate authority, within a period of eight (8) weeks thereafter.

Miscellaneous Petitions, if any pending shall stand disposed of. There shall be no order as to costs.

CHALLA KODANDA RAM, J

9th MARCH, 2018.

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