

THE HONOURABLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.9731 OF 2018

ORDER:

Heard learned counsel for the petitioner and the learned Government Pleader for Panchayat Raj (TG) appearing for the respondents.

2. In the present writ petition, challenge is to the order passed by the District Collector (Panchayat Raj Department), Suryapet District, respondent No.2 herein, *vide* proceedings No.105/18-B1 (Panchayat), dated 05.03.2018.

3. According to the petitioner, she got elected as a Sarpanch, Nagaram Gram Panchayat in the year 2013. The District Collector issued a show cause notice bearing No.105/2018-B1(Panch.Dept)-2, dated 21.02.2018, framing the following charges against the petitioner herein:

“Charge-1: A sum of Rs.95,081-00 was collected as per the gram panchayat house tax receipt books, but however only a sum of Rs.83,500/- and thereby not credited to the Gram Panchayat Fund. The bills, vouchers and gram panchayat resolutions for expenditure of Rs.51,500/- incurred towards removal of street dogs are not shown. The bills, estimates and vouchers for expenditure towards gate valve repair and miscellaneous for Rs.12,901/- are also not shown. An amount of Rs.12,901/- collected from the Gram Panchayat towards Library Cess is not credited to the Panchayat Fund.

The total amount of Rs.82,662/- is objectionable from the Gram Panchayat General fund.

Charge No.2: Payment of Rs.75,600/- through master roll without recording in measurement book. Objectionable for an amount of Rs.15,499/- for the works undertaken towards Legislative Vat, C.Charges, Quality Charges and others. An

amount of Rs.10,10,251/- was drawn as advance from the 14th Finance Commission towards various kind of expenses, but verification of records reveals that adjustment was made only for a sum of Rs.7,00,190/- only. Hence, the remaining closing balance amount of Rs.3,10,061/- without any works is objectionable.”

After receipt of the said show cause notice, on 26.02.2018, petitioner submitted a representation to the District Collector, requesting to grant time for 40 days to submit the explanation on certain grounds including illness. Thereafter, according to the petitioner, she submitted explanation on 03.03.2018 to the show cause notice. The District Collector passed the impugned order *vide* proceedings No.105/18-B1(Panchayat), dated 05.03.2018, ordering removal of the petitioner herein from the office of the Sarpanch in exercise of the powers conferred under Section 249(1) of the Telangana State Panchayat Raj Act, 1994.

4. According to the learned counsel for the petitioner, the said order of removal of the petitioner from the office of the Sarpanch of the respondent Gram Panchayat is highly illegal, arbitrary and unreasonable and also violative of Article 14 of the Constitution of India besides being opposed to the provisions of the Telangana State Panchayat Raj Act, 1994. It is further submitted by the learned counsel that respondent No.2 herein, while passing the impugned order, did not take into consideration either the representation of the petitioner herein dated 26.02.2018 or the explanation, dated 03.03.2018, as such, the impugned action is violative of the principles of natural justice also. It is further submitted by the learned counsel that the audit report, dated 20.02.2018, submitted by the auditor, which is the basis for the

impugned action, does not indicate any lapses on the part of the petitioner herein and in fact, a copy of the said report is placed on record along with the writ petition as a material paper.

5. On the other hand, it is submitted by the learned Government Pleader, appearing for the respondents that there is absolutely no illegality nor there exists any procedural infirmity in the impugned action and in the absence of the same, the impugned action is not amenable for any judicial review under Article 226 of the Constitution of India. It is further submitted by the learned Government Pleader that there is no evidence to show that the petitioner herein submitted explanation to the District Collector. It is further submitted by the learned Government Pleader that having filed an appeal before the State Government, it is not open for the petitioner herein to maintain the present writ petition.

6. There is absolutely no dispute with regard to the reality that after receipt of the show cause notice, dated 21.02.2018, calling upon the petitioner herein to file explanation within a period of three (3) days, the petitioner herein submitted a representation on 26.02.2018, requesting time on certain grounds including illness. A copy of the explanation, dated 03.03.2018, is also filed as a material paper, which was filed prior to the passing of the impugned order, and the same contains the signature and the seal of the District Panchayat Officer, Suryapet. There is also no dispute with regard to the fact that as against the orders impugned in the present writ petition, petitioner herein filed an appeal before the State Government so also an application seeking interim

suspension of the impugned order, dated 05.03.2018, and the pendency of the same is also not disputed.

7. Since the appeal and the application for interim suspension are pending consideration before the State Government, this Court, having regard to the submissions of the learned counsel for the petitioner and the learned Government Pleader, deems it appropriate to dispose of the writ petition with a direction to respondent No.1/State Government to pass appropriate orders on the application for interim suspension, dated 09.03.2018, filed by the petitioner herein along with the appeal against the impugned order within a period of two (2) weeks from the date of receipt of a copy of this order after giving notice to all the stakeholders including the petitioner and also an opportunity of hearing to the petitioner herein. Pending consideration of the same, the order passed by respondent No.2 *vide* proceedings No.105/18-B1(Panchayat), dated 05.03.2018, shall remain suspended. Respondent No.1 shall also make an endeavour to dispose of the main appeal as expeditiously as possible.

8. Accordingly, the Writ Petition is disposed of. There shall be no order as to costs.

9. Miscellaneous Petitions pending, if any, in this Writ Petition shall stand closed.

JUSTICE A.V.SESHA SAI

Date : 29.03.2018

Note:-

Furnish C.C. within two days.

B/O
AMD

THE HONOURABLE SRI JUSTICE A.V.SESHA SAI



WRIT PETITION No.9731 OF 2018

Date: 29.03.2018

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