

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

W.P.NO.9905 OF 2018

ORDER

Petitioner, who is working as Field Assistant on contract basis at Chundi Gram Panchayat, Valetivaripalem mandal under Mahatma Gandhi National Grameen Employment Guarantee Scheme, was removed temporarily from service and show cause notice was issued vide proceedings in R.C.No.D5/77/EGS/2018 dated 19.02.2018 on the ground of his involvement in Crime No.3/2018 of VV Palem Police Station for the offences punishable under Sections 307, 324, 143, 147, 148, 149 IPC. Assailing the proceedings dated 19.02.2018, present writ petition is filed.

Learned counsel for the petitioner, reiterating the averments made in the affidavit filed in support of the writ petition, submits that petitioner was falsely implicated in the crime and his name was not mentioned either in the complaint or in the FIR and hence he is in no way connected with the crime, and only with an intention to affect his employment, crime was foisted. He stated that the petitioner was also granted conditional bail. Relying on the judgment of a learned single Judge of this court in ***AYESHA FATHIMA v. A.P. STATE MINORITIES FINANCE CORPORATION, HYD.***¹ learned counsel contended that suspension of an employee on the mere ground of filing a case against him, is arbitrary and the employer is under an obligation to verify as to whether pendency of such a case would come in the way of effective discharge of duties and considering these circumstances, the employer has to come to a conclusion whether suspension is warranted. In

¹ 2006(3) ALD 252

the light of above facts and circumstances and the law laid down by the learned single Judge of this court in the decision cited supra, as the pendency of the case would not come in the way of discharge of duties of petitioner and the disciplinary authority considering these circumstances has not come to the conclusion that suspension is warranted; the learned counsel contended that temporary removal of petitioner from service, is not warranted and, therefore, sought to revoke the suspension.

On the other hand, learned Government Pleader for Panchayat Raj for respondents 1 to 3 and 5 and Standing Counsel Sri Ch.Ravi, appearing for the 4th respondent, submits that the impugned proceedings are only suspending the petitioner pending inquiry and as the inquiry is in progress, no interference at this stage is warranted and, therefore, sought to dismiss the writ petition.

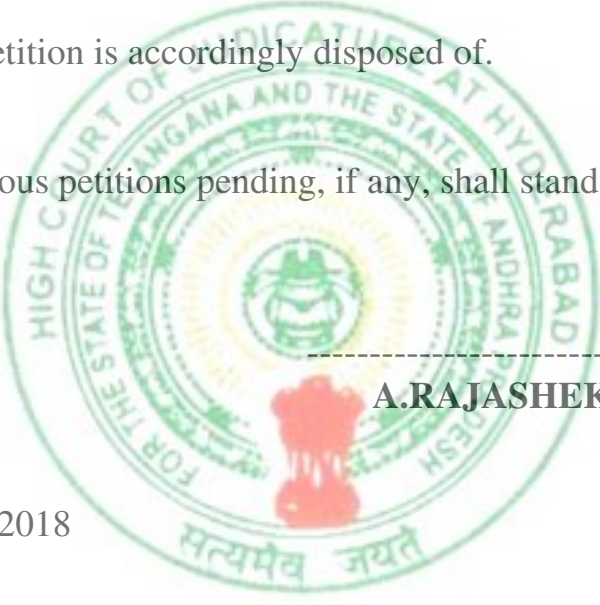
Suspension pending inquiry will not be interfered with by this court in normal circumstances, unless the same is without jurisdiction or with *mala fides*. There is no tangible material on record to consider the said grounds. Law laid down in the judgment of the learned single Judge of this court referred to supra, is unexceptionable, but cannot be made applicable to the facts of the present case, since in that case, the petitioner was alleged to have been involved for the offence punishable under Section 498-A of IPC, whereas in the present case, the petitioner is alleged to have been involved in the crime for the offences punishable under Sections 307, 324, 143, 147, 148, 149 IPC, the gravity of which is serious in nature. However, the truth or otherwise of the allegations, will be decided during the course of investigation or trial. Having regard to the nature of allegations, the

respondents have temporary removed the petitioner from service by issuing show cause notice and as per the submissions of the learned counsel for the respondent, inquiry is in progress. Hence, I am not inclined to interfere with the impugned order.

However, as the inquiry is stated to be in progress, without expressing any opinion on merits, writ petition is disposed of directing the respondents to complete the inquiry and take appropriate action in accordance with law, uninfluenced by any observation made in this order, within a period of two months from the date of receipt of a copy of this order.

The writ petition is accordingly disposed of.

Miscellaneous petitions pending, if any, shall stand closed. No costs.



A.RAJASHEKER REDDY,J

DATE:27—03—2018

AVS