

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

* * * *

CONTEMPT CASE No.2007 of 2017

Between:

Smt.A.Saraswathi

....Petitioner

and

Sri K.Jawahar Reddy, S/o.Not known to the petitioner,
Secretary, Panchayat Raj Department,
State of A.P., A.P.Secretariat, Velagapudi,
Amaravathi, Guntur District,
and others.

....Respondents

JUDGMENT PRONOUNCED ON

: 05.03.2018

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO :

1. Whether Reporters of Local newspapers may be allowed to see the Judgments? : No
2. Whether the copies of judgment may be Marked to Law Reporters/Journals? : No
3. Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? : No

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

CONTEMPT CASE No.2007 of 2017

ORDER:

This Contempt Case is filed alleging non-implementation of the order passed by this Court on 22.08.2017 in W.P.No.23040 of 2017 while issuing notice before admission in the Writ Petition, which reads as follows:

“Notice before admission returnable in four weeks.

Learned Government Pleader seeks time to file counter affidavit.

It is submitted by the learned counsel for the petitioner that, when the action of the official respondents is assailed in implementing the impugned order without communicating the same in W.P.No.21817 of 2017, where this Court passed an interim order restraining the seventh respondent from acting unless the order dated 30.06.2017 is communicated to the petitioner, it appears that, subsequently, the order dated 30.06.2017 was communicated and the same is challenged in the present Writ Petition.

In view of the restraint order passed earlier in W.P.No.21817 of 2017 dated 06.07.2017, there shall be interim suspension of the impugned proceedings for a period of four (4) weeks.

Post after four (4) weeks.”

The petitioner, who is the Sarpanch of Lingaraopalem Gram Panchayat, Chilakaluripet Mandal of Guntur District, stated that after conducting enquiry, the second respondent passed an order on 07.10.2016 removing the petitioner from the said post of Sarpanch with effect from 09.11.2016 and against the said order, she filed a statutory appeal before the first respondent on 21.10.2016 along with an application seeking suspension of the said proceedings dated 07.10.2016. When the first respondent

did not pass any orders, she filed W.P.No.38133 of 2016 and the same was disposed of on 07.11.2016 by suspending the proceedings dated 07.10.2016 pending disposal of the appeal. The petitioner also filed W.P.No.3011 of 2017 challenging the proceedings of the third respondent dated 19.03.2016 prohibiting her from drawing Gram Panchayat funds temporarily and the said proceedings were suspended by an order dated 10.02.2017 in the said Writ Petition. Thereafter, the sixth respondent served a copy of the proceedings of the second respondent dated 30.06.2017 directing the Upa Sarpanch to take over the charge of Gram Panchayat records and function as Incharge Sarpanch until further orders. Then she came to know that the appeal preferred by her was dismissed on 16.06.2017 upholding the orders dated 07.10.2016 of the District Collector removing the petitioner from the post of Sarpanch. Since the copy of the proceedings dated 16.06.2017 was not served on the petitioner, she filed W.P.No.21817 of 2017 challenging the proceedings dated 30.06.2017. Thereafter, on 03.07.2017 the petitioner received a copy of the proceedings dated 16.06.2017 passed in her appeal. She filed W.P.No.23040 of 2017 challenging the order of removal passed by the first respondent dated 16.06.2017 and the consequential proceedings of the second respondent dated 30.06.2017 directing the Upa Sarpanch to take over the charge and function as Incharge Sarpanch until further orders. In those circumstances, in W.P.No.23040 of 2017, the above order was passed.

The petitioner further stated that after receiving a copy of the interim order dated 22.08.2017 of this Court, she submitted a representation on 28.08.2017 to the respondents requesting them to implement the said orders and requested the sixth respondent to convene the meeting of the Gram Panchayat. But, the sixth respondent addressed a letter to the fifth respondent on 04.09.2017 narrating the above facts and since a meeting was conducted on 15.06.2017 and the period of 90 days expires on 14.09.2017, sought for clarification with regard to the person who has to preside over the next meeting. The fifth respondent in turn addressed a letter on 04.09.2017 to the third respondent seeking clarification. The fourth respondent also addressed a letter to the third respondent on 05.09.2017 seeking necessary instructions in the matter. This action of respondent Nos.3 and 4 is deliberate violation of the interim order dated 22.08.2017. Added to that, the petitioner stated that she and other members received a notice on 12.09.2017 from the sixth respondent informing that the meeting of the Gram Panchayat would be held on 14.09.2017 at 11:30 am under the Presidentship of the Sarpanch of the Gram Panchayat. When the petitioner along with other members went to the Panchayat Office on 14.09.2017, respondent No.6 informed her that the third respondent by proceedings dated 13.09.2017 directed him to conduct the Gram Panchayat meeting under the Presidentship of the Extension Officer i.e., the fifth respondent. When the petitioner asked for a copy of the order of the said proceedings dated 13.09.2017 it was not furnished. Thus, the petitioner

stated that the third respondent also willfully committed contempt of the orders of this Court dated 22.08.2017.

The third respondent filed a counter affidavit initially on 31.12.2017 admitting the submission of representation by the petitioner on 28.08.2017 seeking implementation of the orders of this Court. It was also admitted that respondent Nos.5 and 6 addressed letters seeking clarification and the same were received in her office. She also stated that a meeting was directed to be held on 14.09.2017 under the Presidentship of the Extension Officer, Edlapadu, but, she did not state under what circumstances she passed that order. In view of the same, this Court directed her to file an additional affidavit and, accordingly, she filed an additional affidavit on 15.02.2018 stating that she joined the duty as District Panchayat Officer, Guntur, on 11.08.2017. She further stated that the order of this Court was not brought to her notice, but again stated that the petitioner submitted a representation on 28.08.2017 seeking implementation of the orders which were received by her on 31.08.2017. She further stated that the Junior Assistant working in her office put up the office note merely stating that a case is pending in the High Court and to conduct Gram Panchayat meeting with the Extension Officer before lapse of 90 days period and, accordingly, orders were issued by her to conduct the meeting as such on 14.09.2017. After knowing the facts, she passed an order on 27.10.2017 restoring the petitioner as Sarpanch of the Gram Panchayat. She also stated that the

concerned Assistant was suspended by proceedings dated 03.02.2018 and a charge memo was issued to the Divisional Panchayat Officer, Narsaraopet, for recommending the file to issue proceedings for holding the meeting after having knowledge about the interim orders.

The fourth respondent, who is working as the Divisional Panchayat Officer, filed a separate counter affidavit admitting the issuance of orders by this Court on 10.02.2017 and 22.08.2017 and did not state with regard to the reasons for not implementing the orders of this Court but stated of addressing a letter to the third respondent.

The Extension Officer – fifth respondent, filed a separate counter affidavit and also admitted the receipt of representation of the petitioner dated 28.08.2017 on 31.08.2017 and stated that in view of the letter of the Panchayat Secretary – sixth respondent, dated 04.09.2017, and also in view of the proceedings of the third respondent the meeting was held on 14.09.2017. She further stated that she has no role in the administration of Gram Panchayat. She merely attended the meeting held on 14.09.2017 at the request of the Panchayat Secretary pursuant to the orders issued by the District Panchayat Officer dated 13.09.2017.

The counter affidavit of the Panchayat Secretary – sixth respondent, also discloses that the representation dated 28.08.2017 enclosing the copy of the order dated 22.08.2017

was received on 31.08.2017 and he addressed a letter to the District Panchayat Officer on 04.09.2017 seeking clarification. He further stated that in view of the proceedings of the third respondent dated 13.09.2017 he conducted the meeting since he has to follow the orders of the higher authorities.

Learned Counsel for the petitioner relied on a decision of this Court in **Taluri Seshaiiah v. M.Narayan Rao**¹ and submitted that the reasons for not complying with the orders of the Court cannot be accepted as they do not have any validity and when the High Court directs a person to do something or omit to do something, it is incumbent on that person to comply with that order forthwith without any doubt or hesitation in his mind. The excuse that he may be found fault with by the higher authorities or that he should consult the higher authorities before complying with the orders of Court can be of no avail when he is asked to show cause as to why he should not be committed for contempt.

It is clear from the above facts that this Court passed an order while issuing notice before admission on 22.08.2017 suspending the proceedings dated 30.06.2017 directing the Upa-Sarpanch to take over the charge of the Gram Panchayat records and function as Incharge Sarpanch until further orders. The said order was communicated by the petitioner under a representation dated 28.08.2017 and received by respondent Nos.4 to 6. But, the sixth respondent instead of implementing

¹ 1966 (1) ALT 158 : AIR 1967 AP 19

the said order, sought clarification from the fourth respondent and the fourth respondent in turn sought orders from the third respondent. The third respondent passed an order on 13.09.2017 directing to hold the meeting on 14.09.2017 under the Presidentship of the Extension Officer and she further stated that she passed the said order in view of the wrong note file placed before her by the Junior Assistant dealing with the subject. After issuance of the contempt notice she came to know the facts and issued a charge memo to the fourth respondent and suspended the said Junior Assistant. Though the meeting was held on 14.09.2017 pursuant to the orders of the third respondent, it was postponed due to lack of quorum. The postponed meeting was held on 04.10.2017. Ultimately, an order was passed on 27.10.2017 restoring the position of Sarpanch to the petitioner. The main Writ Petition is pending. In view of holding of the meetings on 14.09.2017 and 04.10.2017, learned Counsel for the petitioner vehemently argued that the respondent Nos.4 to 6 deliberately violated the orders of this Court.

Respondent Nos.4 and 6 in their counter affidavits admitted receipt of orders of this Court on 31.08.2017. But, instead of implementing the orders, they sought clarification from the higher authorities. This can be called a deliberate attempt made by them to avoid implementation of the orders. The law is well settled that the authorities who have to implement the orders cannot and need not seek directions from

the higher authorities. It is apposite to quote the relevant portion of the judgment in **Taluri Seshaiiah**'s case (supra) and it reads as follows:

"In so far as the reasons for his not complying with the orders of this Court are concerned, they cannot be accepted as having any validity. When an order of the High Court directs a person to do something or omit to do something, it is incumbent on that person to comply with that order forthwith without any doubt or hesitation in his mind. The excuse that he may be found fault with by the higher authorities or that he should consult the higher authorities before complying with the orders of Court can be of no avail when he is asked to show cause why he should not be committed for contempt. No official superior can take any action against any of his Subordinates for complying with the orders of Court. It is somewhat regrettable that there should prevail an attitude of mind, namely, that when orders of Court are received, a public servant should think that he has to approach his official superior and get further directions and get their permission also to comply with the directions of Court. We may reiterate the observations of Subba Rao, C.J. (as he then was) in **Jones Shield v. Ramesam**, 1955-1 Andh WR 208 at P. 211: ((S) AIR Andh 156 at p.159) "this Court will take a serious view, if public officers of responsibility act in such a manner as to obstruct the course of justice or disobey to implement the orders of Court, for such acts will undermine the prestige of Courts and set a bad example to the public". The risks involved in hesitation or delay, for whatever reason, in complying with the orders of Court are serious, and the person disobeying them or not complying with them will alone be responsible for the consequences and he cannot be heard to say that he has referred the matter to his official superiors; and for that matter, his official superiors cannot give him any kind of protection. It may be pointed out that the arm of the law is long enough to reach even the superior officers themselves if they give instructions contrary to the orders of the Court, or give an impression to the Subordinate officials that compliance with orders of Court without their approval will open them to disciplinary action or make them blameworthy. Similarly an excuse as we have found stated in some cases, that the order was received in office by some clerk and it was not placed before the officer to whom it is addressed and who has to comply, would not be of any avail. In our view, it is desirable that the Government should issue suitable instructions to their subordinate officials bringing to their notice the serious consequences of non-compliance with the orders of Court, on the plea that they have to first obtain orders of their official superiors before complying with the Courts orders. Such instructions will obviate any fear or misconception in the

mind of these officials that they may be opening themselves to disciplinary action if they comply with the orders of Court.”

However, the third respondent filed the counter affidavit stating that she joined the duty as District Panchayat Officer, Guntur, on 11.08.2017 after transfer from State of Telangana. She was facing difficulties initially in adjusting at the new place as she had not completely shifted from Hyderabad and having a small baby. She has to adjust in the new environment, weather conditions and political scenario, as she never visited Andhra Pradesh earlier. Nobody brought to her notice with regard to the interim order and now she has taken action against the Junior Assistant who misled her and the Divisional Panchayat Officer, who sought her decision. Hence, this Court takes a lenient view of the conduct of the third respondent and she is let off with a warning to be careful in future while dealing with the Court orders. But, respondent Nos.4 and 6 have no excuse. Accordingly, respondent Nos.4 and 6 are punished under the Contempt of Courts Act and a fine of Rs.10,000/- (Rupees ten thousand only) is imposed on each of them to be payable to the District Legal Services Authority, Guntur, within a period of thirty days from the date of receipt of a copy of this order.

The Contempt Case is, accordingly, partly allowed.

(A.RAMALINGESWARA RAO, J)

05.03.2018
vs