

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.36558 OF 2018

Dated:23.10.2018

Between:

Sammeti Venkateswara Reddy,
S/o. Sri Obula Reddy, aged about
32 years, Occ: Agriculture,
Presently Sarpanch of Sammetivaripalem
Village, Karlapalem Mandal, Bapatla,
Guntur District, Andhra Pradesh

.. Petitioner

And

The state of Andhra Pradesh, rep., by its
Principal Secretary, Panchayat Raj and
Rural Development Department,
Secretariat Buildings, Velagapudi,
Amaravathi, Guntur District, Andhra
Pradesh and others

... Respondents



The Court made the following:

THE HON'BLE SRI JUSTICE P. NAVEEN RAO**WRIT PETITION No.36558 OF 2018****ORDER:**

Heard.

2. Petitioner is Sarpanch of Sammetivaripalem Village. By order dated 19.05.2018, the District Panchayat Officer ordered the petitioner not to draw general funds and other funds lodged in the Sub-Treasury and the Bank concerned for a period of three months. On 19.08.2018, order was passed imposing the said ban for a further period of three months. A reading of the order would show that pursuant to the order dated 19.05.2018, petitioner gave his explanation with supporting documents to rebut the contention that he indulged in misappropriation of Gram Panchayat funds. However, the order does not disclose the tenability of imposing ban and the reason for not accepting the explanation, but summarily holds that the explanation was not satisfactory and therefore the District Panchayat Officer passed further order extending ban imposed on the petitioner on exercise of financial powers.

3. On a reading of Rule 42 of the Panchayat Raj Rules Relating to Certain Taxes and Lodging of Moneys Received By The Gram Panchayat And Payment Of Money From The Gram Panchayat Fund notified vide G.O.Ms.No.30, Panchayat Raj and Rural Development Department, dated 20.01.1995, the course adopted by the District Panchayat Officer is not valid and he ought to have issued show cause notice, called for explanation and after considering the said explanation, by assigning due reasons in support of the decision, he ought to have made an order. If an order is made in terms thereof, an appeal shall lie to the District Collector. As noted above, no

order is made, as required, after providing opportunity and hearing the petitioner. Therefore, the order is not sustainable.

4. It is contended by learned counsel for the petitioner that Section 45 of the Andhra Pradesh Panchayat Raj Act, 1994 (for short, 'the Act'), which is invoked, has no application. A bare reading of Section 45 of the Act would show that it is not attracted to the case on hand and mechanically it is referred. Section 45 of the Act deals with duties of Gram Panchayat, whereas Section 25 of the Act deals with powers and functions of the Sarpanch.

5. Accordingly, the order impugned in the Writ Petition is set aside and the matter is remitted to the District Panchayat Officer to consider the explanation already offered by the petitioner along with the relevant documents placed before him. He should also afford an opportunity of personal hearing by fixing a date in advance and after considering the material placed on record, he shall pass orders by assigning reasons in support of his decision as warranted by law. Till a decision is made, as directed above, the petitioner shall be competent to exercise powers vested in him in accordance with Section 25 of the Act including financial powers.

6. The Writ Petition is accordingly allowed. Pending Miscellaneous Petitions, if any, shall stand closed.

P. NAVEEN RAO, J

Date: 23.10.2018

Note:- Issue C.C. in one week.

(B/o)
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