

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.45573 of 2018

ORDER:

1. This writ petition is filed seeking to issue a writ of Mandamus declaring the action of the respondent in not initiating steps for conducting regular enquiry by conducting Gram Sabha, by recording the statements of both villagers and the petitioner, by giving him an opportunity to cross-examine them and by considering his representation dated 1.11.2018; and further declaring the action of the respondent in choosing to pass final order basing on the stage managed enquiry proceedings, as illegal, arbitrary, discriminative, colourable exercise of powers, contrary to the circular dated 17.3.2012 and ratio laid down in order dated 7.7.2010 in W.P.No.14121 of 2009 and batch besides violative of Articles 14, 16 and 21 of the Constitution of India; and consequently, to direct the respondent not to pass any final order till conclusion of disciplinary proceedings by way of conducting Gram Sabha duly giving him full opportunity, by recording the statements of villagers in his presence and giving him an opportunity to cross-examine the witnesses/villagers; and also to direct the respondent to pass final order basing on the report prepared after conducting Gram Sabha.

2. Heard Sri Peeta Raman, learned Counsel for the petitioner and Sri M. Sri Ramachandra Murthy, learned Standing Counsel for the respondent.

3. It has been contended by the petitioner that he was appointed as Technical Assistant (TA) on 12.4.2013 for a Central Government Programme called Mahatma Gandhi National Rural Employment Guarantee Scheme, and he has been discharging his duties to the best satisfaction of his superiors and everyone concerned. Further, it has been contended by the petitioner that he was placed under suspension vide proceedings dated 23.2.2018 on certain allegations, and that as the respondent was not concluding the disciplinary action against the petitioner, the petitioner filed W.P.No.35266/2018 before this Court challenging the suspension orders, and this Hon'ble Court was pleased to dispose of the said writ petition vide order dated 5.10.2018, directing the respondent to conclude the disciplinary proceedings as expeditiously as possible, preferably within one month from the date of receipt of the copy of the order. This Court further observed that if for any reason, there is delay in concluding the disciplinary proceedings not attributable to petitioner, the petitioner shall be reinstated without prejudice to continuation of disciplinary proceedings. Now, it is the grievance of the petitioner that though one month elapsed the

respondent has not concluded the disciplinary proceedings nor reinstated the petitioner into service. The petitioner further contends that the respondent conducted enquiry behind the back of the petitioner, and that no opportunity was given to him to cross-examine the witnesses and that the statements of the witnesses were recorded behind his back. He further contends that the petitioner submitted a representation on 1.11.2018 requesting the respondent to conduct de novo enquiry after giving an opportunity to him to participate in the enquiry. He further contends that appropriate orders may be passed in the writ petition directing the respondents to consider his representation dated 1.11.2018 and pass appropriate orders and further directing the respondent to re-conduct the enquiry once again in the presence of the petitioner after giving an opportunity to him to defend his case before the enquiry officer.

4. The learned Standing Counsel for the respondent contended that the enquiry was conducted after giving an opportunity to the petitioner and that the respondent will pass appropriate orders based on the enquiry and therefore, appropriate orders may be passed in accordance with law.

5. This Court having considered the submissions made by the parties is of the view that this writ petition can be disposed of directing the respondent to consider the representation dated

1.11.2018 submitted by the petitioner and pass appropriate orders.

6. Accordingly, the Writ Petition is disposed of directing the respondent to consider the representation of the petitioner dated 1.11.2018 and pass appropriate orders, within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

15th December, 2018
Nn

ABHINAND KUMAR SHAVILI, J



HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI



Writ Petition No.45573 of 2018
(disposed of)

15th December, 2018

Nn