

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Writ Petition No. 45264 of 2017

ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed by the petitioner seeking verbatim the following relief:

“....to issue a writ or order or direction, more particularly one in the nature of Writ of Mandamus, declaring the action of the 2nd respondent vide his Proceedings No.A1/ e-21548/ 2016 dated 18.11.2017 purported to be placing the petitioner under suspension is void *ab initio*, *non est* in law, highly unwarranted, suffers from non-application of mind and contrary to Section 249(6) of the Panchayat Raj Act; and pass such other order or orders as this Honourable Court may deem fit and proper in the circumstances of the case.”

2. I have heard the submissions of *Sri C. Ramachandra Raju*, learned counsel appearing for the petitioner, and of the learned Assistant Government Pleader for Panchayat Raj appearing for the respondents. I have perused the material record.

3. The facts and the submissions, in brief, are as follows:

On the ground that the petitioner has committed certain financial and administrative lapses in the administration of the Gram Panchayat, an enquiry was initiated and a show cause notice, dated 22.12.2016, was issued by the 2nd respondent/ District Collector, West Godavari, under Section 249(6) of A.P. Panchayat Raj Act, 1994, calling upon the petitioner to show cause as to why she shall not be suspended from the post of Sarpanch for a period of three months for misappropriating a huge sum of Rs.5,39,568/- of the Gram Panchayat funds along with the then Panchayat Secretary. To the said show-cause notice, the petitioner offered an explanation and sought re-enquiry. The District Collector ordered re-enquiry and the Enquiry Officer having conducted enquiry, submitted report, dated 07.09.2017.

4. Learned Assistant Government Pleader appearing for the respondents 1 and 2 would submit that the Enquiry Officer opined in the report that a sum of Rs.5,39,568/- has been misappropriated for which the Sarpanch and the Panchayat Secretary are responsible.

5. However, in reply, learned counsel appearing for the petitioner would contend that no such report is served upon the petitioner; however, the impugned order is issued as a measure of penalty without taking any further steps on the enquiry report submitted by the Enquiry Officer.

6. Learned Assistant Government Pleader, on instructions, would submit that the petitioner remitted an amount of Rs.2,19,784/- being the 50% share of the amount misappropriated, vide challan No.21610, dated 03.11.2017, after re-verification of the records.

7. On a consideration of facts, this Court is satisfied that the contention of the writ petitioner that after the enquiry report is submitted, the present suspension orders are issued as a measure of penalty merits consideration. In that view of the matter, the writ petition deserves to be allowed.

8. In the result, the Writ Petition is allowed, as prayed for, however, reserving liberty to the 2nd respondent, District Collector, to take further action, if he is so advised, in strict accordance with the procedure established by law.

Pending miscellaneous petitions, if any, shall stand closed.

There shall be no order as to costs.

M. SEETHARAMA MURTI, J

05th January, 2018
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Dated: 05-01-2018