

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.6274 of 2019

ORDER:

Petitioner is challenging the suspension orders dated 19-03-2019 passed by the 1st respondent-District Collector on the ground that the 2nd respondent-District Tribal Welfare Officer, Kumrambheem-Asifabad District, Asifabad, has issued show cause notice on 18-03-2019 as to why disciplinary action should not be initiated against the petitioner and was asked to submit an explanation from her within seven days and even before expiry of seven days, the 1st respondent-District Collector, had placed her under suspension vide impugned proceedings.

2. The petitioner is challenging the suspension orders on two grounds; firstly, an incompetent authority i.e. 1st respondent-District Collector has passed the suspension orders and secondly, having issued the show cause notice on 18-03-2019, giving seven days' time to the petitioner to submit explanation, even before submitting explanation, the 1st respondent has placed the petitioner under suspension. She further contended that the allegation levelled against her is that she has served the lunch to the students at 5.30pm instead of 1.00 pm and based on the said allegations, the petitioner was placed under suspension.

3. Learned counsel for the petitioner contended that the appointing authority of the petitioner is the 3rd respondent-Deputy

Director of Tribal Welfare and he alone is the competent authority to place the petitioner under suspension but not the 1st respondent-District Collector and the learned counsel for the petitioner had further contended that the 2nd respondent-District Tribal Welfare Officer has issued show cause notice and even before the petitioner submitting explanation, the 1st respondent has placed the petitioner under suspension which is violation of principles of natural justice and therefore impugned orders are unwarranted.

4. Learned Government Pleader for Services-I appearing for respondents contended that the 1st respondent-District Collector is the competent authority and as per Rule 15 of the A.P. Civil Services (Classification, Control and Appeal) Rules, 1991 (CCA Rules), appointing authority or any authority to which it is subordinate including Government may place any employee under suspension under Rule 8 of the CCA Rules.

5. He also contended that admittedly, the 1st respondent-District Collector is superior to the 3rd respondent-Deputy Director of Tribal Welfare and the 1st respondent-District Collector has rightly exercised his jurisdiction and placed the petitioner under suspension. He further contended that for placing an employee under suspension, the CCA Rules do not contemplate issuance of any notice and even if the 2nd respondent issued any notice that cannot be looked into because the superior authority i.e. the 1st respondent-District Collector, who is the competent authority under Rule 15 of the CCA Rules, has placed the petitioner under suspension. He further

contended that since there is right of appeal to the petitioner to approach 4th respondent-Commissioner of Tribal Welfare against the suspension orders as per the CCA Rules, the petitioner is at liberty to approach the 4th respondent-Commissioner of Tribal Welfare by way of an appeal. Hence, there is no merit in the Writ Petition and therefore the Writ Petition is liable to be dismissed.

6. This Court, having considered the submissions made by the counsel for the both parties and without expressing any opinion on the merits of the case, is of the view that a direction be given to the petitioner to prefer an appeal within one week from the date of receipt of a copy of this order, if she is so advised to prefer appeal against the suspension orders before the 4th respondent-Commissioner of Tribal Welfare and upon such an appeal being preferred by the petitioner, the appellate authority shall consider the said appeal and pass appropriate orders within a period of two weeks thereafter.

7. With these observations, the Writ petition is disposed of.
No costs.

8. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

Date: 26-03-2019
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