

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO. 21064 OF 2019

Date: 30.09.2019

Between:

Gopu Ramakrishna s/o. Mallaiah,
Aged 33 years, occu: Village Revenue Assistant,
r/o. Mallial village, Ellandakunta Mandal,
Karimnagar district.

..... Petitioner

And

The State of Telangana, rep.by its Prl.Secretary
to the Revenue Department, Secretariat Buildings,
Hyderabad and others.

..... Respondents



The Court made the following:

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ORAL ORDER:

Heard learned counsel for petitioner and learned Government Pleader for Revenue.

2. Petitioner is working as Village Revenue Assistant (for short VRA). On 8.4.2019 at about 16.45 hours a trap was laid, where Anti Corruption Bureau (for short ACB) officials caught the Tahsildar and petitioner as they demanded and accepted an amount of Rs.2,00,000/- from the complainant to do an official favour. As per the report of the ACB dated 9.4.2019 and 12.4.2019, accused no.1 had accepted that he has demanded money and asked the petitioner/shown as accused no.2 to collect the money from the complainant. The phenolphthalein test conducted over both hands and hand fingers of the petitioner yielded positive result; the entire stated amount was seized from the left front pocket of petitioner pants. Petitioner and Tahsildar were arrested and produced before the Special Judge for SPC & ACB cases at Karimnagar and remanded for judicial custody. By the time District Collector passed orders dated 15.04.2019 suspending the petitioner, he continued to be in custody. In other words, petitioner was in custody for more than 48 hours. Based on the material placed before the District Collector would disclose that petitioner was involved in case of demand and acceptance of bribe.

3. Though learned counsel for petitioner sought to contend that petitioner was no way concerned with the alleged demand and acceptance but he received the money as directed by his superior authority, this issue can be gone into by the ACB in the process of investigation into Crime No.04/ACB-KNR/2019 and Court cannot express any opinion on said aspect at this stage.

4. Learned counsel for petitioner sought to contend that Tahsildar is appointing authority for the post of VRA, and he alone is competent to place VRA under suspension, whereas suspension order was passed by the District Collector, therefore suspension is vitiated.

5. To test the validity of an order of suspension, what is required to be considered by the Court is whether the order is passed by competent authority; whether there was application of mind by the competent authority and whether suspension would operate automatically if employee was in custody for more than 48 hours.

6. Service conditions of VRA are governed by A.P. Village Revenue Assistants Service Rules notified vide G.O.Ms No. 1849 Revenue Department dated 28.10.2005. As per Rule 5 Tahsildar is appointing authority. Part-V deals with disciplinary matters. According to Rule 42, Tahsildar or any superior authority may suo motu or on a complaint, conduct an enquiry, suspend, remove or dismiss any VRA for misconduct or negligence of duty or for not residing in the village or if he is convicted in a criminal case which in the opinion of such authority disqualifies him from holding the office. Rule 44 deals with suspension pending enquiry. According to sub rule 1 of Rule 44, Officer competent to suspend VRA as a measure of punishment may also place VRA under suspension. According to first proviso appended to Sub Rule 1, if a VRA is detained in custody on a criminal charge or otherwise for a period exceeding 48 hours, he would be deemed to have been suspended with effect from the date of detention by an order of appointing authority and would remain under suspension until further orders.

7. On a cumulative reading of the above Rules, it is apparent that power to suspend is not only vested in the appointing authority but is also conceded to higher authorities. The District Collector is higher authority, therefore, order of suspension impugned herein, per-se is not vitiated on that ground.

8. Reading of the order of suspension would show that based on the material placed before him and on prima facie conclusion arrived at by the District Collector that petitioner was involved in the allegation of corruption, he was placed under suspension.

9. Be that as it may, admittedly, petitioner was in custody for more than 48 hours. According to first proviso to Rule 44 (1) petitioner would be deemed to be under suspension from the date of custody, as if an order is passed by appointing authority and would remain under suspension until the order is revoked. Petitioner was taken into custody on 09.04.2019 and was in custody for more than 48 hours. Thus, the suspension

from services of petitioner came into effect automatically from the date of his detention after completion of 48 hours.

10. Thus, even assuming the order of District Collector is without jurisdiction, in law, setting aside such order, does not result in restoration of petitioner to duty, having regard to first proviso to Rule 44 (1) of Service Rules. Therefore, the suspension and continuation under suspension is not vitiated. Such suspension shall continue until it is reviewed by the competent authority.

11. Petitioner may have a grievance against prolonged continuation of suspension, if there is no progress in the investigation. As the incident happened only in April, 2019, it cannot be said that there is inordinate delay in investigation. Further, petitioner has not applied to review desirability to continue the petitioner under suspension, but straightaway invoked the jurisdiction of this Court.

12. For the foregoing reasons, writ petition is dismissed. Miscellaneous petitions if any shall stand closed.

P.NAVEEN RAO,J

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