

**HIGH COURT FOR THE STATE OF TELANGANA :: AT
HYDERABAD**

WRIT PETITION NO.2130 OF 2020

Between:

J.Shyamsunder Reddy s/o. Venkatram Reddy,
Aged 55 years, Panchayat Secretary Grade-I,
Gram Panchayat of Janwada of Shankerpally (M),
R.R. District.

.... Petitioner

and

State of Telangana, rep.by its Principal Secretary,
Panchayat Raj & Rural Development Department,
Secretariat, Hyderabad and others.

.... Respondents

DATE OF JUDGMENT PRONOUNCED : 05.02.2020

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

1. Whether Reporters of Local Newspapers : No
may be allowed to see the Judgments ?
2. Whether the copies of judgment may be : **Yes**
marked to Law Reporters/Journals
3. Whether Their Lordship wish to : No
see the fair copy of the Judgment ?

***THE HON'BLE SRI JUSTICE P.NAVEEN RAO**

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... Petitioners

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.... Respondents

!Counsel for the petitioners : Mr. K.Rama Subba Rao

Counsel for the Respondents : Govt.Pleader for Services-II for
Govt.Pleader for Panchayat Raj
for respondents

<Gist :

>Head Note:

? Cases referred:

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HON'BLE SRI JUSTICE P.NAVEEN RAO

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ORDER:

Petitioner is working as Panchayat Secretary Grade-I. By the order of the District Collector dated 09.01.2020, petitioner was placed under suspension. In this writ petition, petitioner challenges the said order of suspension.

2. Heard learned counsel Mr. K.Rama Subba Rao for petitioner, learned Government Pleader for Services-II for learned Government Pleader for Panchayat Raj for the respondents.

3. According to the learned counsel for petitioner, the order of suspension is vitiated on the following grounds:

i) As per the Andhra Pradesh Panchayat Raj Subordinate Service Rules, the Commissioner of Panchayat Raj is the appointing authority and he is also the disciplinary authority to take disciplinary action against the Panchayat Secretary Grade-I. The District Collector is the competent authority to take disciplinary action against the Panchayat Secretary Grades-III & IV. Therefore, the order impugned is not within the competence of the District Collector.

ii) Assuming that District Collector is competent authority to order suspension, it does not envisage commencement or contemplation of disciplinary action and, therefore, on that ground also it is vitiated.

iii) The allegation made against the petitioner is not a grave offence, warranting suspension of service.

4. Learned Assistant Government Pleader supports the order of suspension and would submit that as long as competent authority has passed order of suspension, the Court should not interfere unless *mala fides* are attributed.

5. The Andhra Pradesh Panchayat Raj Subordinate Service Rules, 2010 (for short, 'Rules') were made in exercise of powers vested in the Government by the proviso to Article 309 of the Constitution of India, read with Section 36(3) and Section 268(1) of A.P.Panchayat Raj Act, 1994 (for short, 'Act, 1994'). In supersession of A.P.Panchayat Raj Act, 1994, Telangana Panchayat Raj Act 2018 (Act No.8/2019) (for short, 'Act, 2018') is made by the State Legislature and came into force with effect from 27.05.2019. Section 51 of the Act, 2018, deals with powers of inspecting and superintending officers and of the Government. Sub-section (19) of Section 51 of the Act, 2018 vests power in the District Collector to supervise and monitor the functioning of Panchayat Secretaries of all grades, Extension Officers, Divisional Panchayat Officers and District Panchayat Officer. For this purpose, the District Collector is called as Collector (Panchayat). He is also vested with power to take disciplinary action against all the above Officers on failure to discharge their duties.

6. Section 295 of the Act, 2018 deals with repeal and saving. By this provision, the Act, 1994 is repealed. However, the Rules or any other instructions/directions issued earlier under the old Act, shall continue to operate, provided those rules/notifications/orders are not inconsistent with the provisions of the Act, 2018. No new rules governing the conditions of service of Panchayat

Secretaries are notified and the old rules are in force. Rule 3 of the Rules prescribes the Commissioner of Panchayat Raj as appointing authority, and Rule 13(1) of the Rules, vests power of taking disciplinary action against Panchayat Secretary Grade-I, only in the commission of Panchayat Raj. However, vesting of power of disciplinary control against Panchayat Secretaries in the Commissioner alone by these rules has no force of law as the said provisions are inconsistent with Section 51(19) of the Act, 2018, and to the extent of inconsistency the provisions of the Act shall prevail. In view thereof, the District Collector is the competent authority to take disciplinary action against Panchayat Secretary Grade-I.

7. A reading of the order would show that District Collector was disturbed by the fact that petitioner being Panchayat Secretary Grade-I who was required to actively participate in prestigious 'Palle Pragathi Programme' on 06.01.2020 was found absent. The Sarpanch has also complained of frequent absence and non-cooperation of Panchayat Secretary. Taking this conduct of petitioner seriously, the District Collector placed the petitioner under suspension. It cannot be said that order of suspension is made without application of mind by the competent authority nor it is vitiated on the ground of arbitrary exercise of power. Therefore, the order is not vitiated on this ground also.

8. The order of suspension need not mention whether further action would be taken against the petitioner. In this context, it is appropriate to note the provision contained in Section 51 (19) of the Act, 2018. It vests power in the District Collector to take

disciplinary action. Disciplinary action *per se* would include suspension from service. After suspension from service, whether the disciplinary authority would take further steps or would continue petitioner without further disciplinary action cannot be gone into, at this stage, as the same is premature. It cannot be said that petitioner is remediless if no further steps are taken by the District Collector and issue stands at the stage of suspension of service only.

9. I see no merit in the contentions of learned counsel for petitioner. Writ Petition is accordingly dismissed. This dismissal order does not come in the way of petitioner availing remedy of appeal against the order of suspension, if such provision is available. Pending miscellaneous petition shall stand closed.

JUSTICE P.NAVEEN RAO

Date: 05.02.2020
kkm

Note: LR copy to be marked : Yes

HON'BLE SRI JUSTICE P.NAVEEN RAO



WRIT PETITION NO.2130 OF 2020

Date: 05.02.2020

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