HIGH COURT FOR THE STATE OF TELANGANA
(Special Original Jurisdiction)

SATURDAY, THE TWELFTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY

PRESENT

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 6584 OF 2020

Between:

Ilpauram Balaraju, S/o. Mallaiah, Aged 40 years, Occ. Upa-Sarpanch, R/o. 4-59/1, Thippaipalle Village, Kodimial Mandal, Jagtial District.

...PETITIONER

AND

1. The State of Telangana, Rep. by its Principal Secretary, Panchayat Raj Department, Secretariat, Hyderabad.
2. The District Collector, Jagtial District.
3. The Mandal Parishad Development Officer (MPDO), Kodimial Mandal, Jagtial District.
4. The Gram Panchayat, Rep. by its Secretary Thippaipalle Village, Kodimial Mandal, Jagtial District.
5. The Sarpanch, Thippaipalle Village, Kodimial Mandal, Jagtial District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus, declaring the action of the 2nd respondent in issuing the proceedings vide Letter No.A3/15/2020 dt.20/03/2020 in suspending the petitioner as Upa-Sarpanch of Thippaipalle village, Kodimial Mandal, Jagtial District without considering his explanation and without assigning any valid reasons as illegal, arbitrary, unconstitutional and violation of Principles of natural justice and consequently set aside the same.

IA NO: 1 OF 2020

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the proceedings vide Letter No.A3/15/2020 dt.20.03.2020 issued by the 2nd respondent as against the petitioner as Upa-Sarpanch of Thippaipalle village, Kodimial Mandal, Jagtial District, pending the disposal of the above Writ Petition.

IA NO: 2 OF 2020

Between:

The Sarpanch, Thippaipalle Village, Kodimial Mandal, Jagtial District.

.... Petitioner/ Respondent No.5/ R.5

AND

1. Ilpauram Balaraju, S/o. Mallaiah, Aged 40 years, Occ. Upa-Sarpanch, R/o. 4-59/1, Thippaipalle Village, Kodimial Mandal, Jagtial District.

...Respondent/ Petitioner/ Writ Petitioner

Contd....

2. The State of Telangana, Rep. by its Principal Secretary, Panchayat Raj Department, Secretariat, Hyderabad.
3. The District Collector, Jagtial District.
4. The Mandal Parishad Development Officer (MPDO), Kodimial Mandal, Jagtial District.
5. The Gram Panchayat, Rep. by its Secretary Thippaipalle Village, Kodimial Mandal, Jagtial District.

...Respondents/ Respondents 1 to 4/-do-

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to vacate the interim orders in IA No.1 of 2020 in W.P No.6584 of 2020 otherwise it will cause irreparable loss and hard ship to the Gram Panchayat.

Counsel for the Petitioner: SRI T. RAJINIKANTH REDDY

Counsel for the Respondent Nos. 1&2: SRI RAMACHANDRA REDDY,

GP FOR PANCHAYAT RAJ & RURAL DEVELOPMENT

Counsel for the Respondent No. 4: SRI G. NARENDER REDDY,

STANDING COUNSEL FOR GRAM PANCHAYAT

Counsel for the Respondent No.3:---------

Counsel for the Respondent No.5: SRI MYLARAM YADAGIR

The Court made the following: ORDER

THE HON' BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.6584 of 2020

ORDER:

Heard the learned counsel for the petitioner; Sri Mylaram Yadagir, learned counsel for respondent No.5; Sri Ramachandra Reddy, learned Government Pleader for respondent Gram Panchayat; Sri G. Narender Reddy, learned Standing Counsel.

The petitioner-Upa Sarpanch challenges the order dated 20.03.2020 passed by the District Collector under Section 37(1)(v) of the Telangana Panchayat Raj Act, 2018 (Act 5 of 2018) suspending the petitioner for a period of six months. This Court by order dated 27.04.2020 granted interim suspension of the impugned order and by virtue of the interim order the petitioner is continuing to function as Upa Sarpanch.

It is a case where the petitioner being Upa Sarpanch and being interested in the affairs of the Grampanchayat, sought various information with respect to the works allegedly executed on behalf of the Grampanchayat; and that the petitioner has also invoked the Right to Information Act and paid Rs.3,556/- on 03.01.2020 for the purpose of obtaining documents from the Grampanchayat to be furnished by the respondent No.5-Sarpanch so as to verify the claims made by the Sarpanch with respect to the alleged works carried out on behalf of the Grampanchayat; and that the Sarpanch had been insisting the petitioner to sign the cheques without asking any questions, and as the petitioner had resisted to such insistence of the Sarpanch, a complaint was made against the petitioner before the District Collector, and the impugned order came to be passed by the District Collector.

Learned counsel for the petitioner while reiterating the averments of the writ affidavit, would assert that the Grampanchayat did not pass any Resolution and, as a matter of fact, the same was opposed by majority of the

members. Learned counsel for the petitioner would also assert that the petitioner being interested in the affairs of the Grampanchayat, in all fairness, had sought information under the Right to Information Act by incurring huge costs for obtaining relevant documents with respect to the alleged works carried out on behalf of the Grampanchayat, and the respondent No.5 failed to furnish the necessary information and on the contrary made a complaint to the District Collector. Learned counsel for the petitioner would also assert that the District Collector failed to consider the objections of the petitioner from proper perspective and had the District Collector caused enquiry into the allegations of the petitioner, the misdeeds of the Sarpanch would have been exposed. Learned counsel would also assert that the suspension period in the impugned order was for a period of six months, and inasmuch as the six months have expired by 20.09.2020 the impugned order does not survive, and further the petitioner has been cooperating in all affairs of the Grampanchayat.

Learned counsel Sri Ramachandra Reddy assisting Sri G. Narender Reddy, while denying the allegations of the petitioner, submits that the crucial aspect to be noted is that the petitioner had failed to honour the Resolution of the Grampanchayat for approval of the payments for the works which have been carried out by the respective authorities and recording the same in the Measurement Books (MB). It is further submitted that non-cooperation by the petitioner has jeopardised the interests of the Grampanchayat thereby the District Collector exercised his powers under Section 37(1)(v) and passed the impugned order dated 20.03.2020 suspending the petitioner for a period of six months and therefore there is no illegality in the impugned order and the same does not call for any interference. The submissions made by the counsel for respondent No.5 are also on similar lines.

Having perused the impugned order and considering the fact that though this Court does not sit in appeal against the impugned order, the

arguments of the learned counsel for the petitioner need to be considered. At the outset it may be noted that there is no challenge to the power of the District Collector in passing the impugned order dated 20.03.2020 under Section 37(1)(v) of the Act. If one examines the objections raised by the petitioner, it may be noted that in response to the notice, the petitioner never raised the issue of there being no Resolution of the Grampanchayat.

So far as the allegations made against respondent No.5-Sarpanch with respect to the affairs of the Grampanchayat, admittedly the petitioner had not chosen to make an independent complaint at any time to the District Collector to enquire into those allegations.

The important aspect and the scope of enquiry that is required to be conducted while exercising powers under Section 37(1)(v) of the Act is limited to the extent of Distict Collector forming an opinion that it would be in the interest of the Grampanchayat to keep the Sarpanch / Upa Sarpanch out of Office temporarily by suspending, and the suspension cannot be for a period beyond six months. Further, the suspension of Sarpanch / Upa Sarpanch is not by way of punishment but to ensure smooth functioning of the affairs of the Grampanchayat, and the suspension can be only with respect to violations of Sections 37(1)(i) and (ii) of the Act.

In the present case, the petitioner/Upa Sarpanch by refusing to honour the Resolution of the Grampanchayat, would be hindering the affairs/smooth functioning of Grampanchayat, and the non-cooperation on account of internal bickerings would not be in the interest of Grampanchayat and public at large.

In that view of the matter, exercise of power by the District Collector under Section 37(1)(v) of the Act cannot be found fault with. However considering the fact that six months period expired by 20.09.2020, and it is only on account of the interim order granted by this Court the petitioner continued to function as Upa Sarpanch, and further after passing the

impugned order, if there is no complaint against the petitioner and if the petitioner has been cooperating with the Grampanchayat, it may be a case for the District Collector to reconsider the period of suspension.

In that view of the matter, the matter is remitted to the District Collector for considering the subsequent development and for passing necessary orders by revisiting the impugned order dated 20.03.2020 within a period of four weeks from the date of receipt of a copy of this order.

Subject to the above, the writ petition is disposed of. No costs. Miscellaneous petitions, if any pending, shall stand closed.

SD/-I.NAGALAKSHMI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Secretary, Panchayat Raj Department, State of Telangana, Secretariat, Hyderabad.
2. The District Collector, Jagtial District.
3. The Mandal Parishad Development Officer (MPDO), Kodimial Mandal, Jagtial District.
4. The Secretary, Gram Panchayat, Thippaipalle Village, Kodimial Mandal, Jagtial District.
5. The Sarpanch, Thippaipalle Village, Kodimial Mandal, Jagtial District.
6. One CC to Sri. T. Rajinikanth Reddy, Advocate [OPUC]
7. One C.C. to Sri. G. Narender Reddy, Standing Counsel for Gram Panchayat (OPUC)
8. One C.C. to Sri. Mylaram Yadagir, Advocate [OPUC]
9. Two CCs to GP for Panchayat Raj & Rural Development, High Court for the State of Telangana. [OUT]
10. Two CD Copies

Prk

HIGH COURT

DATED:12/12/2020

ORDER

WP.No.6584 of 2020



Disposing of the WP.
without costs.

(12) VLV
18/12/20