IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI

(Special Original Jurisdiction)

FRIDAY, THE TENTH DAY OF JANUARY

TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

WRIT PETITION NO: 770 OF 2025

Between:

N. Sundaraiah, S/o. N.Venkata Reddy, Aged 78 years, Occ. Sarpanch, R/o. Yanamadala Village, Chejerla Mandal, SPSR Nellore District.

...PETITIONER

AND

1. The State of Andhra Pradesh, Represented by its Principal Secretary, Panchayat Raj and Rural Development Department Secretariat Buildings at Velagapudi, Amaravati, Guntur District.
2. The Commissioner and Director, Panchayat Raj and Rural Development Department PVS Icon Buildings, Tadepalli, Guntur District.
3. The District Collector (Panchayat Wing), SPSR Nellore District, Nellore.
4. The District Panchayat Officer, SPSR Nellore District, Nellore.
5. The Divisional Panchayat Officer, Atmakuru, SPSR Nellore District.
6. The Panchayat Secretary, Yanamadala Gram Panchayat, Yanamadala Village, Chejerla Mandal SPSR Nellore 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 any writ or direction more particularly a writ in the nature of Writ of Mandamus declaring the action of Respondent No.4 in issuing the impugned order in ROC.No.2887/2024-A2 dt.27.11.2024 cancelling the cheque drawing powers of petitioner without giving an opportunity to the petitioner, without considering the explanation of

petitioner and without following the due process of law as illegal, arbitrary, unconstitutional, violative of Principles of Natural Justice, Article 14, 21 of the Constitution of India, consequently set-aside the same and restore the cheque drawing powers of the petitioner.

IA NO: 1 OF 2025

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 impugned order in ROC.No.2887/2024-A2 dt.27.11.2024 issued by Respondent No.4 and restore the cheque drawing powers of the petitioner, pending disposal of the above writ petition pending disposal of the above writ petition.

Counsel for the Petitioner: SRI V. VINOD K REDDY

Counsel for the Respondent Nos.1 to 5: GP FOR PANCHAYAT RAJ & RURAL DEVELOPMENT

Counsel for the Respondent No.6: SRI M. SUDHIR, SC FOR ZPP, MPP & GRAM PANCHAYAT

The Court made the following: ORDER

APHC010014872025

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3329]**
(Special Original Jurisdiction)

FRIDAY ,THE TENTH DAY OF JANUARY
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

WRIT PETITION NO: 770/2025

Between:

N Sundaraiah ...**PETITIONER**

AND

The State Of Andhra Pradesh and Others ...**RESPONDENT(S)**

Counsel for the Petitioner:

1.V VINOD K REDDY

Counsel for the Respondent(S):

1.GP FOR PANCHAYAT RAJ RURAL DEV

THE HONOURABLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

WRIT PETITION NO: 770/2025

This Court made the following

ORDER:

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

> "to issue a writ, order or direction more particularly one in the nature of WRIT OF MANDAMUS declaring the action of the Respondent No.4 in issuing the impugned order in ROC No.2887/2024-A2, dated 27.11.2024 cancelling the cheque drawing powers of Petitioner without giving an opportunity to the Petitioner, without considering the explanation of Petitioner and without following the due process of law as illegal, arbitrary, unconstitutional, violative of Principles of natural justice, Articles 14, 21 of the Constitution of India, consequently set-aside the same and restore the cheque drawing powers of the Petitioner and pass.....

2. The case of the Petitioner is that the Petitioner is an elected Sarpanch for Yanamadala Village, Chejerla Mandal, SPSR Nellore District and while discharging his duties as Sarpanch of the Village, the villagers made a complaint on 29.07.2024 before the 3rd Respondent alleging that the Petitioner committed misappropriation

of funds from the receipt of the "R.O Water Plant" which was constructed out of MPLADS funds are public funds. After such complaint the Petitioner was issued with show cause notice on 02.11.2024 calling the Petitioner to submit an explanation for the allegations made at show cause notice, for which the Petitioner submitted a representation dated 18.11.2024 requesting a short extension of 15 days for the submission of detailed written explanation. After the submission of representation the Petitioner is under impression that the Respondent Authorities, particularly the 4th Respondent may not proceed further till the submission of explanation as requested by the Petitioner through representation.

3. In compliance of the representation the Petitioner submitted his explanation on 24.11.2024 and the same was received by the Respondent Authorities on 28.11.2024. But without considering the explanation and without waiting for the period as requested by the Petitioner, the Respondent No.4 passed impugned order dated 27.11.2024 taking away the power of the Petitioner i.e., drawing the funds from the competent authority. Hence the Writ Petition.

4. On the other hand, learned Government Pleader submits that since the Petitioner not submitted his explanation within stipulated

time, the 4th Respondent proceeded further and passed impugned order only after issuance of show cause notice to the Petitioner. As such, the 4th Respondent complied with the steps / procedure as contemplated under Rule 42(1) of the A.P. Panchayat Raj Rules,1995.

5. He further submits that the order impugned dated 27.11.2024 is an appealable order U/s 42(2) of the A.P. Panchayat Raj Rules, 1995 before the 3rd Respondent-District Collector. Without availing such alternative remedy the Petitioner approached this Court and invoked the extraordinary jurisdiction which is contrary to the Rules and the Writ Petition is liable to be dismissed.

6. Heard Sri V. Vinod K. Reddy, learned counsel for the Petitioner and Sri P. Rajesh Kumar, learned Assistant Government Pleader for Panchayat Raj and after having heard both the counsel and after perusal of material placed on record, it is observed that in compliance of Rule 42(1) of Rules, 1995 the 4th Respondent issued show cause notice, for which the Petitioner submitted his representation and requested for 15 days time for submitting detailed written explanation. If that is so, the 4th Respondent would have been passed an order either rejecting the representation or

accepting the same. But in the absence of any express order, it can be presumed the Respondent Authorities granted time to the Petitioner i.e., 15 days time for submission of a detailed written explanation. It is further observed that the Petitioner submitted his explanation to the show cause notice dated 02.11.2024 (received on 04.11.2024) seeking extension of time for submission of a detailed written explanation on 24.11.2024 and the same was received by the Respondent Authorities on 28.11.2024. Even the date of receipt also within 15 days time from the date of request of time of 15 days. That being so, the passing of impugned order as if there is no explanation, is contrary to the principles of natural justice and principle of fair and reasonable opportunity to the Petitioner. It is settled proposition of law that once the impugned order passed without adhering to the principles of natural justice and opportunity, the alternative remedy as was canvassed by the Respondents cannot be accepted and also unsustainable.

7. In view of the submission made by both learned counsel, it is appropriate that this Writ Petition can be disposed of by setting aside the impugned order vide ROC.No.2887/2024-A2, dated 27.11.2024 passed by the 4th Respondent and consequently directing the 4th Respondent herein to consider the explanation of

the Petitioner dated 24.11.2024 and pass speaking orders afresh in accordance with law after providing an opportunity of hearing within four (4) weeks from the date of receipt of a copy of this order. No costs.

As a sequel, interlocutory applications if any pending, shall stand closed.

Sd/- M.PRABHAKAR RAO
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Secretary, Panchayat Raj and Rural Development Department, State of Andhra Pradesh, Secretariat Buildings at Velagapudi, Amaravati, Guntur District.
2. The Commissioner and Director, Panchayat Raj and Rural Development Department PVS Icon Buildings, Tadepalli, Guntur District.
3. The District Collector (Panchayat Wing), SPSR Nellore District, Nellore.
4. The District Panchayat Officer, SPSR Nellore District, Nellore.
5. The Divisional Panchayat Officer, Atmakuru, SPSR Nellore District.
6. The Panchayat Secretary, Yanamadala Gram Panchayat, Yanamadala Village, Chejerla Mandal SPSR Nellore District.
7. One CC to Sri V. Vinod K Reddy, Advocate [OPUC]
8. One CC to Sri M. Sudhir, SC for ZPP, MPP& Gram Panchayat[OPUC]
9. Two CCs to GP for Panchayat Raj & Rural Development, High Court of Andhra Pradesh. [OUT]
10. Three CD Copies.

ssb

HIGH COURT

DATED:10/01/2025

ORDER

WP.No.770 of 2025



DISPOSING OF THE W.P. WITHOUT COSTS