

(2003) 03 AP CK 0139
In the Andhra Pradesh High Court
Case No : Writ Petition No. 5247 of 2003

E.V. Raghava Reddy

APPELLANT

Vs

The District Panchayat Officer and Others

RESPONDENT

Date of Decision : 27-03-2003

Acts Referred:

Citation : (2003) 03 AP CK 0139

Hon'ble Judges : V.V.S. Rao, J

Bench : Single Bench

Advocate : Challa Srinivasa Reddy, for the Appellant; G.P., for the Respondent

Judgement

V.V.S. Rao, J.—The petitioner is the Sarpanch of Narava Grama Panchayat, Giddalur Mandal, Prakasam District. By notice dated 23.9.2002, the 1st respondent while calling upon the petitioner to file his explanation as to the irregularities committed by him within 15 days from the date of receipt of the notice, purporting to exercise the powers under the second proviso to sub-rule (1) of Rule 42 of the Rules promulgated in G.O.Ms.No.30, Panchayat Raj & Rural Development & Relief Department dated 20.1.1995 (these rules relate to taxes and lodging of monies and payment of monies by the Gram Panchayat) directed that the petitioner shall not draw general funds/JGSY funds/11th finance commission funds of the said Gram Panchayat. The Extension Officer, Mandal Praja Parishad was authorized to operate the funds of the said Gram Panchayat. This order is assailed in the writ petition.

2. The learned counsel for the petitioner contends that the order is bad as it is not preceded by any notice. Secondly he would contend that there is no material before the 1st respondent to pass the impugned order and the impugned order is passed merely based on a report of the 2nd respondent that the petitioner failed to produce the records of the Gram Panchayat before the Extension Officer, Giddapur. Thirdly, the learned counsel for the petitioner contends that though the petitioner submitted his explanation on 7.10.2002, the 1st respondent has not passed appropriate orders for the last six months.

3. I have heard the learned counsel for the petitioner Sri Challa Srinivas Reddy and the learned Assistant Government Pleader. The matter lies in a very narrow compass and therefore can be disposed of at the admission stage. Rule 42 of the Rules issued in G.O.Ms.No.30 reads as under:

42(1) the District Panchayat Officer concerned may, for sufficient reasons to be recorded in writing, prohibit by an order any executive authority from drawing the moneys of the Gram Panchayat for such period as may be specified in such order:

Provided that no such order shall be passed unless opportunity of making representation has been given to the executive authority concerned;

Provided further that the District Panchayat Officer may issue an interim direction to the executive authority not to draw the moneys of the Gram Panchayat pending the exercise of this power under this sub-rule.

2) Any executive authority aggrieved by an order passed by the District Panchayat Officer concerned under sub-rule (1), may prefer an appeal in writing to the District collector concerned within seven days of the receipt of the order and the decision of the District Collector there on shall be final.

3) Every order passed under sub-rule (1) shall specify the name of the person or the authority who shall draw the moneys of the Gram Panchayat during the period during which the executive authority is prohibited from drawing such moneys

4) A copy of every order passed under sub-rule (1) or sub-rule (2) shall be communicated to all banks and treasuries in which the moneys of the Gram Panchayat are lodged.

5) On and from the date of receipt of such order by any bank or treasury, no payment shall, for the period specified in such order, be made to the executive authority who is prohibited by such order from drawing the moneys of the Gram Panchayat.

4. A plain reading of the above Rules would leave no doubt that when an order is passed under Rule 42(1), the District Panchayat Officer is bound to issue a notice giving an opportunity of making a representation. Second proviso to Rule 42(1) is in the nature of exception to first proviso, and the same does not require the issuance of any notice. The District Panchayat Officer can issue an interim direction directing the executive authority not to draw the monies of the Gram Panchayat pending exercise of powers under sub-rule (1). It is not denied before me that he petitioner is an executive authority of the Gram Panchayat and therefore exercise of powers under the second proviso without issuing notice is not rendered invalid or void.

5. Insofar as the second contention is concerned, whether or not there was refusal on the part of the petitioner in not producing the records before the

Extension Officer is essentially a matter to be gone into subject to the explanation filed by the petitioner. When a Sarpanch of the village fails to comply with the validly issued directions of the Extension Officer or Panchayat Officials, it is a conduct which requires some action. Insofar as the third contention is concerned, I see force in the submission. A copy of the explanation dated 7.10.2002 is filed along with the writ petition which shows that the petitioner has filed the explanation within the time stipulated in the impugned notice. No reasons are forthcoming for not passing final orders under Rule 42(1) of the Rules.

6. As the petitioner was denied the cheque drawing power for the last seven months, ends of justice would be met if the 1st respondent is directed to pass appropriate orders after considering the representation of the petitioner dated 7.10.2002 within a period of 10 days from the date of receipt of this order after giving an opportunity to the petitioner. The Writ Petition is disposed of accordingly. No costs.