
(1999) 06 AP CK 0035

In the Andhra Pradesh High Court

Case No : Writ Petition No. 12856 of 1999

M.S. Rukmini

APPELLANT

Vs

District Collector (PTs), Chittoor

RESPONDENT

Date of Decision : 28-06-1999

Acts Referred:

Andhra Pradesh Panchayat Raj Act, 1944 — Section 249(1)

Citation : (1999) 4 ALD 99 : (1999) 4 ALT 80 : (1999) 2 APLJ 16

Hon'ble Judges : B.S.A. Swamy, J

Bench : Single Bench

Advocate : Mr. P.V. Vidyasagar, for the Appellant; Mr. M. Chandra Sekhar Reddy, Government Pleader for Panchayat Raj, for the Respondent

Judgement

1. Questioning the notification in Roc.No. 78/98-A4(Pts), dated 4-6-1999 issued by the District Collector(Pts), Chittoor, who is the respondent herein, removing the petitioner from the Office of the Sarpanch, Pakala Gram Panchayat, the present writ petition is filed.

2. I have gone through the order passed by the respondent removing the petitioner from the Office of the Sarpanch. It is not in dispute that the District Collector is exercising quasi judicial functions u/s 249(1) of the Andhra Pradesh Panchayat Raj Act (for short "the Act") and he has to pass orders on the information furnished by the Department with reference to the explanation offered by the delinquent, if necessary by giving an opportunity to the effected party to prove his case in person. But, admittedly, in this case, the District Collector called for the report of the Divisional Panchayat Officer and passed the orders on the basis of the findings arrived at by the Divisional Panchayat Officer. It is pertinent to extract paragraph 4 of the impugned order hereunder:

"4. Whereas the irregularities committed by the Sarpanch, remarks of the Divisional Panchayat Officer, Chandragiri and findings of the District Panchayat Officer, Chittoor are enumerated in the Annexure.

(a) Whereas the irregularities Nos. 1, 2, 4, 5, 6 and 11 are proved.

(b) Whereas the irregularity No.8 is partially proved.

(c) Where as the irregularities Nos.3, 7, 9 and 10 are not proved."

It is seen from the above that on the basis of the report submitted by the Divisional Panchayat Officer, Chandragiri and on the findings arrived at by him, the District Collector passed the impugned order without applying his mind to the facts of the case, moreso, having recorded a finding that "I believe that the Sarpanch who does not have adequate knowledge in English or Telugu, could not have done this." Hence, I am inclined to suspend the impugned order till the disposal of the statutory appeal to be filed by the petitioner before the Commissioner as provided under the Act. The petitioner is directed to file her appeal before the Commissioner for Panchayat Raj within one week from today and thereafter the Commissioner shall dispose of the same within a period of two months without reference to the report submitted by his Subordinate Officer and after hearing the petitioner in person. The Commissioner should also keep in mind that if the allegations made against the petitioner relate to procedural irregularities and when an experienced Government employee i.e., Executive Officer is there who has to give necessary assistance to the Sarpanches on the procedural aspects under the provisions of the Act and when he fails to properly guide the Sarpanches, who are, in most of the cases illiterates or semi-literates, can an elected representative be removed from office for the procedural irregularities committed by him/her.

3. The Commissioner shall also keep in mind that the allegation made against the petitioner is that she tampered the resolutions made in the meeting after the meeting is over. As per the practice, any resolution passed in the meeting has to be ratified or confirmed in the next meeting of the Gram Panchayat. If the Sarpanch (petitioner herein) has really tampered the records and recorded a resolution behind the back of the members of the Gram Panchayat, the same would not have been confirmed in the next meeting. Therefore, the Commissioner is directed to look into the records carefully and see how far the allegations made against the petitioner are true and pass appropriate orders in the appeal. Any order passed by him should be a speaking order adverting to the contentions raised by the petitioner and if any other person involves in the matter he should also be heard before passing the order.

4. With the above directions, the writ petition is disposed of at the admission stage.