

(2012) 09 KAR CK 0244

In the Karnataka High Court

Case No : Writ Petition No. 16870 of 2012 (S-RES)

Sri. A Narayanappa

APPELLANT

Vs

Government of Karnataka and Others

RESPONDENT

Date of Decision : 07-09-2012

Acts Referred:

Karnataka Panchayat Raj Act, 1993 — Section 113 (4), 269, 269

Citation : (2012) 09 KAR CK 0244

Hon'ble Judges : Subhash B. Adi, J

Bench : Single Bench

Advocate : G.S. Balagangadhar, for the Appellant; Raghavendra G. Gayatri, HCGP for R1, R2 and R3 are Served But Unrepresented, Sri. T.H. Narayana, for R4, Sri. L. Harish Kumar, for R5 and Sri D.r. Anandeeshwara, for C/R6), for the Respondent

Judgement

Subhash B. Adi

1. Petitioner has called in question the order passed by respondent No. 3 - Executive Officer, Taluk Panchayat, Pavagada, dated 10.05.2012 produced at Annexure "H" and also endorsement dated 15.05.2012 issued by respondent No. 4 - Secretary, Virupasamudra Grama Panchayat produced at Annexure "J". Petitioner claims that, he was working as a Scavenger in respondent No. 4. By resolution dated 27.07.2010 passed by the Grama Panchayat, he was promoted to the post of Bill Collector. However, respondent No. 6 had filed writ petition before this Court in W.P. No. 40464/2011. this Court noticed that the resolution passed by the Grama Panchayat is an appealable order u/s 269 of the Karnataka Panchayat Raj Act, 1963 (hereinafter referred to as "the Act") and accordingly, dismissed the writ petition with liberty. Thereafter, it appears that, respondent No. 6 filed a representation/appeal before the Taluka Panchayat and Taluka Panchayat by the impugned order dated 10.05.2012 produced at Annexure "H" has held that, there is no transparency in the promotion of the petitioner to the post of Bill Collector in the Grama Panchayat and in this regard, has called for a

report. Grama Panchayat, in pursuance of the same, has issued endorsement dated 15.05.2012 as per Annexure "J".

2. Learned Counsel for/the petitioner submits that, the Taluka panchayat has no jurisdiction u/s 269 of the Act to issue such a communication. He also submitted that, there is no appeal filed by respondent No. 6 before the Zilla Panchayat in terms of Section 113(4) of the Act.

3. On the other hand, the Learned Counsel appearing for respondent No. 6 submits that, this Court has specifically observed that, remedy by way of appeal is provided u/s 269 of the Act. He also submitted that, any resolution passed by the Grama Panchayat is appealable u/s 269 of the Act and accordingly, he has filed an appeal.

4. No doubt, respondent No. 6 has filed a representation/appeal before the Taluka Panchayat. However, the Taluka Panchayat before passing an order, should have heard the petitioner and passed an appropriate order. It has directly issued a communication to respondent No. 4 to annul the appointment of the petitioner. As such, in my opinion, if it is a statutory appeal, before passing any order, the appellate authority should have issued notice to the person likely to be aggrieved by the order to be passed by it. Hence, it is suffice to quash the impugned communications at Annexures "H" and "J" and direct the Taluk Panchayat - respondent No. 3 to issue notice to the petitioner and hear him on the basis of the appeal stated to have been filed by respondent No. 6.

Accordingly, the writ petition is allowed. The communication issued by respondent No. 3 dated 10.05.2012 produced at Annexure "H" and the endorsement issued by respondent No. 4 dated 15.05.2012 produced at Annexure "J" stand quashed. Respondent No. 3 shall issue notice to the petitioner and hear him on the basis of the appeal stated to have been filed by respondent No. 6, After hearing both sides, the third respondent is at liberty to pass appropriate order in accordance with law.

Petitioner shall continue as bill collector on adhoc basis till the disposal of appeal before respondent No. 3.

Respondent No. 3 is directed to dispose of the appeal as early as possible not later than two months from the date of receipt of a copy of this order.