

THE HON'BLE SRI JUSTICE RAVI CHEEMALAPATI

WRIT PETITION NO.22740 OF 2023

ORDER:

The present Writ Petition is filed by the petitioner, under Article 226 of the Constitution of India, seeking the following relief:

“to issue Writ of Certiorari to call for records relating to Order of Rejection of Appeal of the petitioner in R.O.C.No.396/2022, P.M.4, dated 21.08.2023 and quash the same as illegal, arbitrary and biased without following due procedure of law and consequently set aside the proceedings of the 3rd respondent in R.O.C.No.396/2022, Vol.4 dated 20.05.2023.”

2. Heard Sri Thadikonda Koteswara Prasad, learned counsel for the petitioner, learned Assistant Government Pleader for Panchayat Raj Department appearing for respondent Nos.1 to 4.

3. Learned counsel for the petitioner, in elaboration to what has been stated in the affidavit contended that, at the instance of respondent No.5, respondent No.3 has issued a show cause notice to the petitioner on 21.01.2023, for which the petitioner has submitted detailed explanation. But without considering the said explanation, respondent No.3 has issued proceedings dated 20.05.2023 suspending the cheque drawing power of the petitioner under Rule 42(1) of G.O.Ms.No.30, PR & RD Department dated 20.01.1995 for a period of three months. Aggrieved by the said proceedings, the petitioner preferred a statutory appeal before the District Collector-2nd respondent and the District Collector also, without proper application of mind and without giving any

reasons, simply rejected the petitioner's appeal. He further submitted that, it is unknown to law as to why the District Collector has rejected the petitioner's appeal. If at all the appellate authority-District Collector is not satisfied with the case, he can as well give reasons to justify the order appealed, but he cannot simply reject the appeal. Under such circumstances, the present Writ Petition is filed and prayed to set aside the proceedings of respondent No.3 dated 20.05.2023.

4. On the other hand, the learned Assistant Government Pleader for Panchayat Raj contended that, on perusal of the proceedings impugned, the 2nd respondent has given cogent reasons, as such, no interference is required as no valid grounds have been raised by the petitioner, as such prayed to dismiss the Writ Petition.

5. Perused the record.

6. On perusal of the impugned order dated 21.08.2023, it clearly shows that, the petitioner's appeal was rejected. The authority has to deal the appeal on merits either considering or to dismiss the case of the petitioner, but he cannot reject the appeal. As such, the impugned proceedings are liable to be suspended.

5. At this stage, learned Assistant Government Pleader for Panchayat Raj submitted that, instead of suspending the said

proceedings, the same may be remand to the authority concerned for passing fresh orders.

6. To the said submission, learned counsel for the petitioner reported no objection.

7. Taking the submissions of both the learned counsel into consideration, instead of keeping this Writ Petition pending, as this Court has observed that the order passed by the District Collector is not inconsonance with the settled principles of law, this Court is inclined to allow the Writ Petition, with the consent of both the learned counsel.

Accordingly, the Writ Petition is allowed setting aside the order dated 21.08.2023 passed by the District Collector-respondent No.2 and the matter is remanded to respondent No.2-District Collector and the District Collector is directed to re-hear the appeal filed by the petitioner afresh and pass a reasoned order within a period of four (4) weeks from the date of receipt of a copy of this order and communicate the same to the petitioner. There shall be no order as to costs.

As a sequel thereto, interlocutory applications pending, if any in the Writ Petition, shall also stand closed.

JUSTICE RAVI CHEEMALAPATI

01.09.2023
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