

APHC010382022023



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

[3332]

MONDAY ,THE TWENTY NINETH DAY OF APRIL
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE RAVI CHEEMALAPATI

WRIT PETITION NO: 19688/2023

Between:

Kalavakuri Mani Kumar

...PETITIONER

AND

The State Of Ap and Others

...RESPONDENT(S)

Counsel for the Petitioner:

1.NAGA PRAVEEN VANKAYALAPATI

Counsel for the Respondent(S):

1.GP FOR PANCHAYAT RAJ RURAL DEV

2.GP FOR FINANCE PLANNING

3.VENKATA REDDY GAJJALA SC FOR ZPP, MPP, AND GRAM
PANCHAYAT

4.KOTI REDDY IDAMAKANTI

The Court made the following:

ORDER

The grievance of the petitioner is nonpayment of the bill amount of Rs.11,03,282/- out of Rs.32,40,000/- towards the cost of the material supplied under MGNREGS scheme for the formation of CC roads, Bulk Milk,

Cooling Unit and Drainage canals, which was lying in the 8th respondent grampanchayat.

2. Heard Sri Naga Praveen Vankayalapati, learned counsel for the petitioner, Sri Venkata Narayana, learned Assistant Government Pleader for Panchayat Raj & Rural Development, Sri Gajjala Venkata Reddy, learned Standing Counsel for ZPP, MPP and Gram Panchayat, learned Assistant Government Pleader for Finance and Planning and Sri Koti Reddy Idamakanti, learned counsel for the 9th respondent.

3. Sri Naga Praveen Vankayalapati, learned counsel for the petitioner, in elaboration submitted that in pursuance of the resolutions passed by the 8th respondent Gram panchayat, the Special Officer of 8th Gram panchayat issued proceedings dated 22.05.2020 & 05.04.2021 in Roc.No.1/MGNREGS requesting the petitioner to supply material for execution of the subject works and accordingly the petitioner had supplied the material. Therefore, the petitioner became entitled to receive an amount of Rs.32,40,000/- and out of the said amount an amount of Rs.11,03,282/- was lying in the account of the grampanchayat, having been deposited through funds under MGNREGS. Despite making representation date 15.06.2023, the 8th respondent grampanchayat, though obligated, is not releasing the said amount. Hence, the petitioner is constrained to file this writ petition and prayed to allow the same.

4. Per contra, learned Assistant Government Pleader for Panchayat Raj & Rural Development, on counter submitted that immediately after completion of works, the competent authority released the funds to the Gram Panchayat and soon thereof the 9th respondent filed a representation on 16.06.2023 to the Panchayat Secretary, for release of funds to him for the works executed under MGNREGS grant claiming that it is he that had supplied material for execution of the works and accordingly the Panchayat Secretary had processed the file to the Sarpanch for issuance of cheque. For no reply from Sarpanch, the Panchayat Secretary intimated the same to the Extension Officer (PR & RD), Kandukur for taking further action. Thereafter, after receiving explanation from the Sarpanch, a joint enquiry as ordered by District Panchayat Officer, Kandukur was conducted and submitted a report stating that the 9th respondent had supplied material for execution of works and recommended for payment of material component to the 9th respondent. In the meantime, this writ petition was filed and interim orders came to be passed by this Court directing the respondent authorities not to disburse any amount to 9th respondent. The Panchayat Secretary had never issued nay proceedings requesting the petitioner to supply material and the documents relied on by the petitioner are planted and fabricated document as could be seen from the stamps affixed on the said documents. One of the documents contains stamp as if the Gram panchayat was located in SPSR Nellore District and the other document contained stamp as if it was located in Prakasam

District. In fact, bifurcation of districts was not taken place by the date of issuance of proceedings. The petitioner had never made any representation dated 15.06.2023 as alleged. The respondent no.6 and the Assistant Engineer, MPP, Kandukur have given certificate that 9th respondent had supplied material for the said works, which shows that the petitioner had not executed the works as alleged by him. Therefore, prayed to vacate the interim directions and dismiss the writ petition.

5. Whereas, the learned counsel for respondent no.9, on counter, submitted that the sarpanch of the gram panchayat got this writ petition filed through the petitioner by producing false and fabricated letters said to have been issued by the Special Officer and sarpanch and then panchayat secretary of the grampanchayat. In fact, the Panchayat secretary is the authority to issue letter for supply of material but not the sarpanch. The signatures contained on the letters dated 22.05.2020 & 05.04.2021 do not belong to them. The sarpanch had withdrawn the amount for the payment of part bills towards the execution of the above works in the year 2022 to the tune of Rs.7,56,342/- and Rs.2,57,194/-. The respondent no.9 is entitled for an amount of Rs.11,03,283/- towards material component of the subject works and though the said amount is lying in the account of Grampanchayat in MGNRGS account, the sarpanch of the grampanchayat for extraneous reasons did not pay the same. The respondent no.6 and the Assistant Engineer, MPP, Kanukur have given certificate that 9th respondent had supplied material for

the said works, which shows that the petitioner had not executed the works as alleged by him. Therefore, prayed to vacate the interim directions and dismiss the writ petition.

6. This writ petition is filed questioning withholding of an amount of Rs.11,03,282/- towards costs of the material supplied by the petitioner for execution of the works pursuant to the letters issued by Special Officer, Sarpanch along with the then Panchayat Secretary of the Gram Panchayat. Through counters, the respondent nos. 7 & 9 resisted the claim made by the petitioner. According to them, the letters relied on by the petitioner are forged and fabricated and moreover the Sarpanch has no power or authority to issue such letters requesting any person to supply material for execution of the works. The counter filed by respondent no.7 further states that pursuant to the directions of the District Panchayat Officer, a joint inspection was conducted and outcome of the said joint inspection is that respondent no.9 had supplied material for execution of the works. Therefore, there are disputed questions of fact exist in this writ petition as to the genuineness of the letters relied on by the petitioner and as to who actually had supplied material for execution of the works.

7. It is fairly settled that this Court while exercising jurisdiction under Article 226 of the Constitution cannot take up the task of resolving the disputed question of facts. There is an exception that this Court can also go into disputed question of facts provided the material available on record is

sufficient for resolving those disputed questions. In the instant case, the material available on record is not sufficient to find out the genuineness of the disputed letters and further letting in oral evidence is required to prove the sanctity of the documents relied on by the petitioners.

8. In view of the above, this Court declines to go into the merits of the matter. Therefore, this writ petition can be disposed of, leaving it open to the petitioner to agitate his claim before competent jurisdictional civil Court.

9. Accordingly, this writ petition is disposed of. The petitioner is at liberty to approach competent Forum for redressal of his grievance. There shall be no order as to costs.

As a sequel, miscellaneous pending petitions, if any, shall stand closed. Interim orders, if any, shall stand vacated.

JUSTICE RAVI CHEEMALAPATI

Dt.29th April, 2024
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