

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI
TUESDAY, THE TWENTY FIFTH DAY OF JULY
TWO THOUSAND AND TWENTY THREE

:PRESENT:

THE HONOURABLE SRI JUSTICE A V SESA SAI

AND

THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

IA No. 1 OF 2023

IN

WA NO: 405 OF 2023

Between:

Muvva Ramalingam, s/o Eswaraiah, aged 54 years, occ. Employee, r/o H.No. 27-1-1305 VanamThopu, Kondapalem, SPSR Nellore District

...Petitioner/Appellant

(Petitioner in WA 405 OF 2023

on the file of High Court)

AND

1. The Director General, Anti Corruption Bureau Pandit Nehru RTC Complex, Vijayawada, Krishna District.
2. The Range Inspector-I, Anti Corruption Bureau Vijayawada, Krishna District.
3. The State of Andhra Pradesh, rep. by its Principal Secretary, Education Department Secretariat, Velagapudi, Amaravathi, Guntur District.

...Respondents/Respondents
(Respondents in-do-)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to Stay all further proceedings in pursuance of G.O.Ms.No.9, dt. 16-4-2014 and technically corrected G.O.Ms.No.14, dated 05-05-2014 and the consequential proceedings in C.C.No.11 of 2014 on the file of the Special Judge, Vijayawada, Pending disposal of WA No. 405 of 2023, on the file of the High Court.

Counsel for the Petitioner : SRI W.B. SRINIVAS, THE LEARNED SENIOR
COUNSEL REPRESENTING SRI R. SUJAN KUMAR, LEARNED COUNSEL

Counsel for the Respondent Nos. 1 & 2 : SMT. A GAYATHRI REDDY Standing
COUNSEL FOR ACB CUM SPL. PP.

Counsel for the Respondent No.3 : SRI NAGA RAJU, LEARNED GOVERNMENT
PLEADER

The court while directing issue of notice to the Respondents herein to show cause as to why this application should not be complied with, made the following order. (The receipt of this order will be deemed to be the receipt of notice in the case). The Court made the following

ORDER

"Heard Sri W.B. Srinivas, the learned Senior Counsel representing Sri R. Sujan Kumar, learned counsel for petitioner/appellant, Smt. A. Gayathri Reddy, learned Standing Counsel for respondent Nos.1 and 2 and Sri Naga Raju, the learned Government Pleader for respondent No.3.

It is submitted by the learned counsel for the petitioner/appellant that the order passed by the learned Single Judge is erroneous and contrary to the provisions of Section 19 of the Prevention of Corruption Act 1998. It is further submitted that the learned Single Judge grossly erred in holding that the State Government by way of the earlier orders did not refuse the prosecution nor granted the same. While referring to the said finding, it is submitted by the learned Senior Counsel that vide Memo No.18195/SE-vig.I(1)/2007-7, dated 25.03.2011; the State Government after reviewing the case in detail and after careful reconsideration of the totality of the circumstances of the case decided to initiate departmental enquiry instead of prosecution in the Court of law, as such, the Memo dated 25.03.2011 should necessarily be taken as refusal to grant prosecution. It is also submitted by the learned Senior Counsel that in the absence of any fresh material, consideration and passing of the fresh orders granting prosecution are not permissible. In support of these submissions and contentions, the learned Senior Counsel places reliance on the Judgments reported in *State of Punjab and Another vs. Mohammed Iqbal Bhatti*¹ and *State of Himachal Pradesh vs. Nishant Sareen*².

On the other hand, the learned Standing Counsel for respondent Nos.1 and 2 and the learned Government Pleader, strongly resisting the Writ Appeal, submit that there is no error in the order passed by the learned Single Judge and since there are no earlier orders of refusal, the learned Single Judge is justified in dismissing the Writ Petition.

In the considered opinion of this Court, the contention sought to be pressed into service by the learned Senior Counsel, appearing for the petitioner/appellant requires consideration and accordingly, there shall be stay of further proceedings pursuant to G.O.Ms.No.9 EDUCATION (SE:vig 1(1) DEPARTMENT, dated 16.04.2014 and G.O.Ms.No.14 EDUCATION (SE:vig I(1) DEPARTMENT, dated 05.05.2014 and the consequential proceedings in C.C.No.11 of 2014 on the file of SPE & ACB Cases, Vijayawada pending further orders."

Sd/- K. J. RAJA BABU
ASSISTANT REGISTRAR

SECTION OFFICER

//TRUE COPY//

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To,

1. The Director General, Anti Corruption Bureau Pandit Nehru RTC Complex, Vijayawada, Krishna District.
2. The Range Inspector-I, Anti Corruption Bureau Vijayawada, Krishna District.
3. The Principal Secretary, Education Department, State of Andhra Pradesh, Secretariat, Velagapudi, Amaravathi, Guntur District. (1 to 3 By RPAD) ✓
4. One CC to Sri R Sujan Kumar Advocate [OPUC] ✓
5. One CC to Sri A Gayathri Reddy, Standing Counsel for ACB cum Spl. PP Advocate [OPUC] ✓
6. Two CCs to GP for Education, High Court of AP [OUT] ✓
7. Two spare copies.

RVK

¹ (2009)17 SCC 92

² (2010) 14 SCC 527

HIGH COURT

AVSSJ & RRRJ

DATED:25/07/2023

ORDER

IA No. 1 OF 2023
IN
WA NO: 405 OF 2023

DIRECTION

