

HIGH COURT OF ANDHRA PRADESH : AMARAVATI**MAIN CASE: W.A. No.405 of 2023****PROCEEDINGS SHEET**

Sl. No.	DATE	ORDER	OFFICE NOTE
05.	25.07.2023	<u>W.A.No.405 of 2023</u> Admit. A. V. SESA SAI, ACJ R.RAGHUNANDAN RAO, J <u>I.A.No.1 of 2023</u> 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	

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		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 Bhatti¹ and State of Himachal Pradesh vs. Nishant Sareen². 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. A. V. SESA SAI, ACJ R.RAGHUNANDAN RAO, J RJS	

¹ (2009)17 SCC 92

² (2010) 14 SCC 527

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