

HIGH COURT OF ANDHRA PRADESH AT AMARAVATHI

MAIN CASE No: W.P.No.10855 OF 2022

PROCEEDING SHEET

SL. No.	DATE	ORDER	OFFICE NOTE
03.	28.04.2022	<u>BKM, J</u> Heard the learned counsel for the petitioner and the learned Government Pleader for Energy for the 1st respondent. No representation for the learned Standing Counsel for the 2nd respondent. This writ petition is filed assailing the proceedings of the 1st respondent in Memo No.4064/Vig/2013 dated 05.03.2016 for the purpose of continuation of trial in the Court of Special Judge for Trial of SPE and ACB Cases, Kurnool against the petitioner herein who is the accused-officer working as Sub Engineer and Incharge Assistant Engineer, APCPDCL, Kaneka Mandal, Ananthapur District. The counsel for the petitioner submits that vide proceedings of the 1st respondent dated 10.10.2014 a decision was taken by the Government to proceed with the “Departmental enquiry” against the petitioner instead of prosecution, accordingly the Director of General, ACB was requested to withdraw the prosecution case pending before the Special Judge for Trial of SPE and ACB Cases, Kurnool and another reminder was also given by the 1st respondent vide Memo dated 24.12.2014 seeking to withdraw the criminal case with a liberty to proceed with the Departmental enquiry. Vide proceedings of the 1st respondent dated 06.02.2015 the Director of General and ACB was requested to take immediate necessary action for filing required application under Section 321 of Criminal Procedure Code, 1973 for withdrawal of the prosecution before the Special Court through	

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		the Public Prosecutor concerned and another proceedings of similar in nature with reasons was also given by the 1st respondent vide Memo dated 09.10.2015. When petition was filed by the Public Prosecutor under Section 321 Cr.P.C., in C.C.No.41 of 2014 vide CrI.M.P.No.278 of 2015 on the file of Special Judge for Trial of SPE and ACB Cases at Kurnool, the same was dismissed. But the learned Public Prosecutor did not rely upon the memo issued by the 1st respondent with reasons dated 19.01.2015 before the Special Court at Kurnool. Consequently, the same was dismissed as stated above against which the petitioner filed CrI.R.C.No.75 of 2016 before this Court and the same was allowed vide order dated 02.03.2020 setting aside the order of the trial Court by giving liberty to the Public Prosecutor to file a fresh application relying upon the Memo issued by the Government dated 09.10.2015. But the same was not followed. In the meanwhile, on 05.03.2016 the 1st respondent has issued the proceedings taking a 'U' turn on the stand taken by them earlier in respect of the petitioner herein to continue now with the criminal case pending before the Special Court at Kurnool instead of dropping the same. In view of the same, <i>prima facie</i> the validity of the Memo is to be examined in this writ petition as the government taken a 'U' turn in the backdrop of the earlier proceedings and decision of the Government. Accordingly, the impugned Memo No.4064/Vig/2013 dated 05.03.2016 of the respondent No.1 is stayed until further orders. Post after summer vacation, 2022 for filing counter by the respondents. BKM, J Yvk	

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