

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI
(SPECIAL ORIGINAL JURISDICTION)

THURSDAY, THE TWENTY EIGHTH DAY OF APRIL
TWO THOUSAND AND TWENTY TWO

:PRESENT:

THE HONOURABLE SRI JUSTICE B KRISHNA MOHAN



WRIT PETITION NO: 10855 OF 2022

Between:

M.K. Lakshmi Reddy, S/o.M.K. Marriswamy, aged about 46 years, Occ. Sub Engineer and I/c. Assistant Engineer, APCPDCL, Kaneka Mandal, Ananthapur District.

...Petitioner

AND

1. The State of Andhra Pradesh, Rep.by its Principal Secretary, Energy (VIG) Department, Secretariat, Velagapudi, Guntur District.
2. The Anti Corruption Bureau, Andhra Pradesh, Rep.by its Director General, 2nd Floor, NTR Adm.Block, Pandit Nehru Bus Station, Vijayawada, Krishna District.

...Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature Writ of Mandamus, declaring the impugned memo of the 1st respondent in Memo.No.4064/Vig/2013, Dt.05.03.2016 granting permission for the prosecution contrary to the earlier memos more specially the Memo No. Memo No.4064/Vig/2013 Dt.09.10.2015, wherein detailed reasons are assigned for the withdrawal of the prosecution that too when the matter was subjudice before the Hon'ble High Court in CRLRC No. 75 of 2016 as illegal, arbitrary and in violative of Articles 14, 19 and 21 of The Constitution of India and consequently set aside the aforesaid impugned Memo, dated 05.03.2016.

IA NO: 1 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to suspend the operation of the impugned Memo of the 1st respondent in Memo.No.4064/Vig/2013 Dt.05.03.2016, pending disposal of WP 10855 of 2022, on the file of the High Court.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and upon hearing the arguments of Sri K Rathangapani Reddy, Advocate for the Petitioner and GP for Energy for the Respondent No.1, the Court made the following;

ORDER:

"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 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, prima facie 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."

//TRUE COPY//

Sd/-T.Madhavi
ASSISTANT REGISTRAR
SECTION OFFICER

To,

1. The Principal Secretary, Energy (VIG) Department, State of Andhra Pradesh, Secretariat, Velagapudi, Guntur District.
2. The Director General, Anti Corruption Bureau, Andhra Pradesh, 2nd Floor, NTR Adm.Block, Pandit Nehru Bus Station, Vijayawada, Krishna District.(1 & 2 by RPAD)
3. One CC to Sri. K Rathangapani Reddy, Advocate [OPUC]
4. Two CCs to GP for Energy, High Court of Andhra Pradesh. [OUT]
5. One spare copy.

MSB

HIGH COURT

BKM,J

DATED:28/04/2022

ORDER

POST AFTER SUMMER VACATION, 2022

WP.No.10855 of 2022

INTERIM DIRECTION

