



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

[3457]

WEDNESDAY, THE TWENTY NINTH DAY OF APRIL
TWO THOUSAND AND TWENTY SIX
PRESENT

THE HONOURABLE SRI JUSTICE HARINATH.N
WRIT PETITION NO: 16044/2011

Between:

1.M.MOHAN RAO, SRIKAKULAM, S/O. LATE CHANDRAIAH ASSISTANT ENGINEER, O/O PROJECT DIRECTOR (H), A.P. STATE HOUSING CORPORATION LTD., SRIKAKULAM.

...PETITIONER

AND

- 1.M D AP STATE HOUSING COPR 3 ORS, REP. BY ITS MANAGING DIRECTOR, 3-6-184, URDU GALLI, HIMAYATHNAGAR, HYDERABAD-500 029.
- 2.THE MANAGING DIRECTOR, A.P. STATE HOUSING CORPORATION LTD., 3-6-184, URDU GALLI, HIMAYATHNAGAR, HYDERABAD-500 029.
- 3.THE PROJECT DIRECTOR, A.P. STATE HOUSING CORPORATION LTD., SRIKAKULAM.
- 4.THE EXECUTIVE ENGINEER/ENQUIRY OFFICER, A.P. STATE HOUSING CORPORATION LTD., TEKKALI, SRIKAKULAM DISTRICT.
- 5.THE STATE OF ANDHRA PRADESH, REP.BY ITS PRINCIPAL SECRETARY HOUSING DEPARTMENT, A.P. SECRETARIAT VELAGAPUDI, AMARAVATI, GUNTUR DISTRICT
- 6.THE EXECUTIVE ENGINEER, A.P. STATE HOUSING CORPORATION LTD., AUTONAGAR, VIJAYAWADA, NTR DISTRICT, AP RESPONDENT NOS. 5 AND 6 IMPEADED AS PER COURT ORDER DATED 24-06-2024 VIDE I.A.NO. 1 OF 2024 IN WP NO. 16044 OF 2011.

...RESPONDENT(S):

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 a writ, order or direction more particularly one in the nature of writ of mandamus declaring the G.O. Rt.No.29, Housing (Vig.Cell) Department, dt.06-02-2014 issued by the 5th respondent as illegal arbitrary and set aside the same and consequently direct the respondents to reinstate the petitioner into service duly granting all other consequential benefits and pass such other order or orders as this Honble Court may deem fit and proper in the circumstances of the case. Main prayer amended/substituted as per C.O.dt 01.07.2024 vide I.A.No 2 of 2024 in W.P.No 16044 of 2011

IA NO: 1 OF 2011(WPMP 19232 OF 2011)

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 suspend the proceedings No. Vig.1/9902/SKLM/2009 dated 06.11.2010 issued by the 2nd respondent and consequential memo RC.No.Vig./9902/Sklm/2009, dated 20.04.2011 issued by the 1st respondent, pending disposal of the writ petition

IA NO: 1 OF 2015(WVMP 1397 OF 2015)

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 vacate the interim order dated 09.11.2012 in WPMP No. 19232 of 2011 in WP No.16044 of 2011

IA NO: 2 OF 2015(WVMP 44351 OF 2015)

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

IA NO: 1 OF 2024

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 permit the petitioner to implead the proposed respondents 5 and 6 as party respondent nos.5 and 6 in W.P.No.16044/2011 as well in Interlocutory Applications and pass

IA NO: 2 OF 2024

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 permit the petitioner to amend the main prayer as well as interim prayer and also wherever occurred in the affidavit as: "to issue a writ, order or direction more particularly one in the nature of writ of mandamus declaring the G.O. Rt.No.29, Housing (Vig.Cell) Department, dt.06-02-2014 issued by the 5th respondent as illegal arbitrary and set aside the same and consequently direct the respondents to reinstate the petitioner into service duly granting all other consequential benefits and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case. INSTEAD OF "to declare the proceedings No.Vig 1/9902/SKLM/2009 dated 06-11-2010 issued by the 2nd respondent and consequential Memo RC No Vig /9902/Sklm/2009 dated 20-04-2011 issued by the 1st respondent as illegal arbitrary and set aside the same and consequently direct the respondents to reinstate the petitioner into service duly granting all other consequential benefits and the above writ petition is pending before this Hon'ble Court and pass

Counsel for the Petitioner:

1.M KESAVA RAO

Counsel for the Respondent(S):

1.KALYAN CHAKRAVARTHY R

2.E V JAGANNADHA RAO (SC FOR AP STATE HOUSING COOP LTD)

3.MALLIKHARJUNA MOORTHY K (SC FOR A.P HOUSING CORPORATION LIMITED)

The Court made the following:

Date of reserve : 31.03.2026

Date of pronouncement : 29.04.2026

Date of Upload : 29.04.2026

THE HONOURABLE SRI JUSTICE HARINATH.N
WRIT PETITION No.16044 of 2011

ORDER:

1. The petitioner is challenging the issuance of G.O.Rt.No.29, dated 06.02.2014 issued by the 5th respondent and seeks a direction to the respondents to reinstate the petitioner as Assistant Engineer and extend all consequential benefits. The writ petition was initially filed challenging the proceedings dated 06.11.2010 and a consequential direction to reinstate the petitioner into service.
2. The learned counsel for the petitioner submits that, on representations of the petitioner, the Government issued G.O.Rt.No.29, dated 06.02.2014, whereby the punishment of removal from service besides recovery of Rs.38,69,735/- together with interest at 12% per annum was reconsidered and the petitioner was reduced to the rank of Assistant Engineer to Technical Work Inspector duly placing him in last position in seniority list of lower cadre apart from recovery of the misappropriated amount of Rs.38,69,735/-. The learned counsel for the petitioner submits that the petitioner is limiting the prayer to the extent of the proposed recovery in pursuance of G.O.Rt.No.29, dated 06.02.2014.
3. The petitioner was initially appointed as Technical Work Assistant on 14.07.1987 in the 2nd respondent corporation. He was promoted as Assistant Engineer on 06.06.2007. It is submitted that the Government issued G.O.Rt.No.107, dated 06.06.2007 laying down guidelines for supervision, monitoring and recommending payments for the

construction of houses to the beneficiaries of the 1st respondent-corporation.

4. As per the said guidelines the Mandal Housing Officers of every Mandal are incharge of supervising, monitoring and recommending payments to the beneficiaries under Indiramma Housing Programme. It is submitted that the petitioner has absolutely no role in recommending payments, however, on account of a complaint made by the then Member of Parliament, the District Collector, Srikakulam issued instructions to initiate action against the petitioner.
5. The petitioner was placed under suspension vide proceedings dated 06.11.2008. Charges were framed on 07.11.2008 and the petitioner was required to submit explanation to the charges within ten days of receipt of the show cause notice. However, an Enquiry Officer was appointed on 07.11.2008 even before the explanation was submitted by the petitioner.
6. It is submitted that the petitioner submitted his explanation, however, the Enquiry Officer without following Rule 20 of AP Civil Services (CCA) Rules had submitted his report on 18.03.2009. Another charge sheet dated 08.04.2009 was issued and the Enquiry Officer submitted his report on 30.05.2009, another charge sheet dated 07.01.2009 was issued and the report was submitted on 30.04.2009. A fourth charge sheet was issued on 12.02.2009 and the Enquiry Officer submitted his report on 30.04.2009.

7. The Enquiry Officer without any enquiry and basing on his own alleged enquiry and without examining any witnesses has arrived at a conclusion that the charges against the petitioner were proved. It is submitted that the CCA Rules would mandate the authority to await the reply to show cause notice and after perusing the reply to the charges leveled, the authority concerned can decide whether a case is made out for appointing an Enquiry Officer or not.
8. On the facts of the present case, the Enquiry Officer was appointed on the day when the charges were issued to the petitioner and much prior to the petitioner submitting his explanation. This is evidently resorted to by the respondent authorities to demonstrate that they have diligently followed the dictates of the political leader. The impugned proceedings dated 06.11.2010 were issued by the 1st respondent.
9. The petitioner filed WP.No.30147 of 2010 which was disposed by this Court by giving liberty to the petitioner to approach the Appellate Authority, the Appellate Authority rejected the appeal on 20.04.2011. Aggrieved by the same, the present writ petition is filed.
10. The Counter is filed on behalf of respondent Nos.1 and 2 and the learned Standing Counsel submits that the Indiramma Housing Programme was introduced to provide houses for weaker sections of the Society and the Mandal Housing Officer would have to identify the eligible beneficiaries and on recommendation of the Mandal Housing

Officer, the Mandal incharge shall issue pay release order without any further verification.

11. It is submitted that the details of the ineligible beneficiaries ought to have been brought to the notice of the respondent. It is stated in the counter that the petitioner is responsible for identifying ineligible beneficiaries and that the petitioner failed to discharge his duty. It is also submitted that Member of Parliament of Srikakulam Lok-Sabha Constituency submitted a complaint about selection of ineligible persons as beneficiaries and that certain payments were released to fake beneficiaries and sought for an enquiry to be conducted. In pursuance of the said complaint the District Collector appointed the enquiry committee consisting of five officers. The Enquiry Committee has found that payments were released towards 96 houses whose construction had not at all started and payments to 52 individuals who are fake beneficiaries were released. The District Collector opined that the Village Secretary (Panchayat), MPDO (MHO), Assistant Engineer (Housing) and Deputy Executive Engineer (Housing) along with Work Inspector were at fault. Action was recommended by the District Collector to the Chief Executive Officer, Zilla Parishad and the District Panchayat Officer, Srikakulam against MPDO (MHO) and Panchayat Secretary.
12. It is also submitted that a third party agency M/s.Gayathri Rural Educational Society had conducted field verification in Chennapuram

Village of Narsannapeta Mandal and reported the irregularities and also held that the petitioner as responsible for the said irregularities. Articles of charges were framed in respect of the irregularities noticed by third party verification conducted by M/s. Gayathri Rural Educational Society and charges were issued with respect to the irregularities committed concerning Kothakopolavalasa Village so also the other irregularities. It is stated in the counter that the petitioner was cooperating for the enquiry as he had requested long adjournment preferably end of February, 2020 in response to the notice received by him requiring him to attend the enquiry on 10.02.2010. The disciplinary authority had examined the case and passed the impugned proceedings under challenge. It is submitted that this Court had granted stay of recovery in pursuance of the impugned proceedings dated 06.11.2010 and 20.04.2011.

13. It is also submitted that the petitioner was reinstated into service by reduction of his rank from Assistant Engineer to that of Technical Work Inspector besides recovery of the misappropriated amount of Rs.38,69,735/-. It is also brought to the notice of the Court by the learned standing counsel for the respondents that the 1st respondent vide proceedings dated 28.05.2020, the individual suspension and removal of service period from 07.11.2008 to 10.03.2014 were regularized as period not spent on duty in terms of Rule 54(5) of the Fundamental Rules. It is also submitted that the petitioner is promoted

as Assistant Engineer vide proceedings dated 07.10.2021 and that the petitioner is now working in the capacity of Assistant Engineer.

14. Heard the learned counsel for the petitioner and the learned standing counsel for the respondents. Perused the material on record.
15. The impugned proceedings initially challenged prior to amending the prayer in the writ petition and the impugned proceedings challenged by the petitioner after amending the prayer and the subsequent events of regularizing the period from 07.11.2008 to 10.03.2014 as not on duty and subsequent promotion of the petitioner vide proceedings dated 07.10.2021 would now leave the Court to decide on whether the proposed recovery can sustain the scrutiny of law.
16. In order to impose major penalties, the disciplinary authority would have to follow the procedure under Rule 20 of CCA Rules. Evidently, as seen from the record available, the respondent authority has not followed the procedure for conducting enquiry and imposing a major punishment of removal from service. The trigger for enquiry is admittedly at the behest of a political leader who based on the inputs he received had without verification directed action to be taken against the Officers concerned.
17. The respondent authority had framed charges called upon the petitioner to submit explanation and even before the explanation was submitted the respondent authority appointed an Enquiry Officer. This demonstrates the pre-determined approach of the respondents.

18. The audit conducted by the third party agency M/s.Gayathri Rural Educational Society is referred to in the impugned proceedings. It is not stated as to under what capacity a third party agency can conduct an audit. The State has a dedicated Audit Division and the services of the Officers in the said Department ought to have been deployed. This Court deems it appropriate to set aside the proposed recovery of Rs.38,69,735/- as the same is arrived at without following the due process of law and the enquiry conducted is contrary to Rule 20 of CCA Rules.
19. The respondents have also not stated as to in what manner the petitioner can identify the ineligible beneficiaries when the role and responsibility of MPDO (MHO) is that of identifying the beneficiaries of the Housing Scheme and recommending release of payments. The petitioner as an Assistant Engineer (Housing) would have to oversee the construction activity. In such circumstances, the proposed recovery arrived at by the respondents is baseless and is evidently determined to portray that action has been initiated against the Officers on the complaint of the political leader.
20. On these considerations and in view of the changed circumstances, the prayer of the petitioner confining to determining the validity of proposed recovery is thus considered and this Court is of the considered view that the proposed recovery of Rs.38,69,735/- against the petitioner is hereby set aside.

21. With these observations, the writ petition is disposed off. There shall be no order as to costs.

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

29.04.2026
KGM

JUSTICE HARINATH.N

THE HONOURABLE SRI JUSTICE HARINATH.N

WRIT PETITION No.16044 of 2011
Dated 29.04.2026