

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI
(SPECIAL ORIGINAL JURISDICTION)
THURSDAY, THE FOURTEENTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY FOUR



:PRESENT:

THE HONOURABLE SRI JUSTICE SUBBA REDDY SATTI
WRIT PETITION NO: 25988 OF 2024

Between:

Metta Appana, S/o Simhachalam, Age 67 years. Occ: Retired Executive Engineer, R/o.Flat No. C-56, Seethamadhara, Northern Extension Layout, Vivenkananda Nagar, Visakhapatnam.

Petitioner

AND

1. The State of Andhra Pradesh, Rep.by its Principal Secretary Municipal Administration & Urban Development (Vig.I) Department, Secretariat, Velagapudi, Amaravati, Guntur District.
2. The Director General, Anti Corruption Bureau Vijayawada.

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 any writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the orders passed in 1st respondent in G.O.Rt No. 763 dated 03-10-2024 is illegal, arbitrary and violation of Article 14 of the Constitution of India and to consequently set aside the same.

IA NO: 1 OF 2024

Petition under Section 151 CPC is filed praying that in the circumstances stated in the grounds filed in support of the petition, the High Court may be pleased to stay the operation of G.O.Rt. No. 763 dated 03-10-2024 in respect of the proceedings in CC No. 15/2014 on the file of III Additional District Judge cum Special Judge for ACB of Visakhapatnam, Pending disposal of WP 25988 of 2024, 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 V V SATISH, Advocate for the Petitioner, learned Assistant Government Pleader for Services appeared for the respondents, the Court made the following ORDER:

“The petitioner, retired Executive Engineer filed the above writ petition impugning the proceedings issued by respondent No.1 *vide* G.O.Rt.No.763 Municipal Administration & Urban Development (Vig.I) Department, dated 03.10.2024, whereby cancelling the orders i.e. withdrawal of prosecution, as illegal and arbitrary.

Heard Sri V.V.Satish, learned counsel for the petitioner and Sri R.S.Manidhar Pingali, learned Assistant Government Pleader for Services appeared for the respondents.

A disproportionate case was registered against the petitioner and the petitioner was arrested on 28.09.2010. The petitioner was placed under suspension with affect from 28.09.2010. The Director General, Anti-Corruption Bureau, Hyderabad requested the Government to authorize the investigating officer to file an application before the Learned Special Judge for SPR and ACB Cases for attachment of certain properties worth of Rs.67,27,214/-. The Government authorized the investigating officer and filed an application before the Court of Special Judge for SPE and ACB cases, Visakhapatnam.

The Director General of ACB in its final report stated that the allegation of acquisition of assets disproportionate to his known sources of income is substantiated and recommended for prosecution under Section 13(2) r/w 13(1)(e) of PC Act, 1988 and also recommended to initiate departmental action. The petitioner made representations by annexing documents to drop further proceedings. In pursuance of representations made by the petitioner, the Director General, ACB, sent a report dated 19.05.2023.

Respondent No.1 issued G.O.Ms.No.63 Municipal Administration & Urban Development (Vig.I) Department, dated 16.05.2024 withdrawing the prosecution orders issued *vide* G.O.Ms.No.200 MA & UD (Vig.I) Department, dated 20.09.2014. Be that as it may, the Director General, ACB addressed a letter *vide* Rc.No.171/RCA-WVP/2010, S-11, dated 12.08.2024 to reconsider and issue cancellation orders regarding the petitioner's prosecution. By the proceedings impugned, respondent No.1 cancelled G.O.Ms.No.63, dated 16.05.2024.

At the hearing, learned counsel for the petitioner placed reliance upon the judgment of State of Himachal Pradesh v. Nishant Sareen¹, wherein the Hon'ble Apex Court observed as follows:

"12. It is true that the Government in the matter of grant or refusal to grant sanction exercises statutory power and that would not mean that power once exercised cannot be exercised again or at a subsequent stage in the absence of express power of review in no circumstance whatsoever. The power of review, however, is not unbridled or unrestricted. It seems to us sound principle to follow that once the statutory power under Section 19 of the 1988 Act or Section 197 of the Code has been exercised by the Government or the competent authority, as the case may be, it is not permissible for the sanctioning authority to review or reconsider the matter on the same materials again. It is so because unrestricted power of review may not bring finality to such exercise and on change of the Government or change of the person authorised to exercise power of sanction, the matter concerning sanction may be reopened by such authority for the reasons best known to it and a different order may be passed. The opinion on the same materials, thus, may keep on changing and there may not be any end to such statutory exercise."

¹ (2010) 14 SCC 527

The case at hand, no reasons were assigned except mentioning that after careful examination, the earlier proceedings were cancelled. The authority should have assign reasons as expressed by the Hon'ble Apex Court in the aforementioned judgment.

Prima-facie, this Court is of the opinion that no reasons were assigned by the authority in the impugned order. Hence, the impugned order is liable to be suspended.

Given the facts and circumstances of the case, the proceedings issued by respondent No.1 vide G.O.Rt.No.763 Municipal Administration & Urban Development (Vig.I) Department, dated 03.10.2024, is hereby suspended.

List the matter on 05.12.2024.”

//TRUE COPY//

For ,

Sd/- SK. MD. RAFI
ASSISTANT REGISTRAR

SECTION OFFICER

To,

1. The Principal Secretary Municipal Administration & Urban Development (Vig.I) Department, Secretariat, Velagapudi, Amaravati, Guntur District, State of Andhra Pradesh (BY SPECIAL MESSENGER)
2. The Director General, Anti Corruption Bureau Vijayawada. (by RPAD)
3. One CC to SRI. V V SATISH Advocate [OPUC]
4. Two CCs to GP FOR SERVICES, High Court of Andhra Pradesh. [OUT]
5. **One spare copy**

KJ

HIGH COURT

SRS,J

DATED:14/11/2024

LIST THE MATTER ON 05.12.2024

ORDER

WP.No.25988 of 2024

SUSPENSION

