

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

And

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

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WRIT PETITION No.13626 of 2015

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ORDER: (per Hon'ble Sri Justice Ramesh Ranganathan)

The petitioner has invoked the jurisdiction of this Court against the order passed by the Andhra Pradesh Administrative Tribunal rejecting the petitioner's application to suspend, the order of suspension, pending disposal of the O.A. filed before the Tribunal.

In the order under challenge in this Writ Petition, the Tribunal, after perusing the record, observed that the Superintendent of Police, Krishna District had sent a report to the Director-General of Police, Hyderabad that the applicant was intentionally conniving with organizers of gambling, cock fights and other social evils; he had allowed such activities, getting monetary benefits through the Head Constable; the said Head Constable was the mediator between the police and the organizers of gambling; he had permitted them to organize gambling, with high stakes, after collecting illegal gratification; inspite of several memos, the petitioner had failed to conduct raids; a news item was published in the newspaper regarding sexual assault of a girl by the Headmaster, resulting in her death; the girl died on 17.10.2014 while undergoing treatment in a hospital at Vijayawada; till the news item was published in the newspapers, on 04.12.2014, no action was taken; only after publication in the newspaper was Cr.No.213 of 2014 registered on 05.12.2014; and, on the basis of the report of the Superintendent of Police, the petitioner was placed under suspension. The Tribunal held that, as the allegation levelled against the petitioner was grave in nature, the balance of convenience did not lie in favour of the applicant. The interim order was rejected.

Sri V.Nitesh, learned counsel for the petitioner, would submit that the

incident of sexual assault took place on 17.10.2014; the petitioner had joined duty only thereafter on 08.11.2014; no action was taken against the Deputy Superintendent of Police who held office before the petitioner joined thereat on 08.11.2014; and selective suspension necessitates interference.

On being asked whether the petitioner had taken any such plea, and had named the individual in the O.A. to enable this Court to ascertain why the said Officer had also not been suspended, Sri V.Nitesh, learned counsel for the petitioner, would submit that the petitioner has neither impleaded the said Officer as a respondent *eo-nominee*, nor has he raised any such plea in the writ affidavit.

The allegations levelled against the petitioner are grave and serious. It cannot be said that the action of the respondents, in placing him under suspension, is so perverse as to necessitate interfere at an interlocutory stage. By way of an interim order, orders of suspension, termination, dismissal and transfer etc. should not be stayed during the pendency of proceedings in the Court. (**Public Services Tribunal Bar Assn. v. State of U.P.**). It is desirable that an order of suspension passed by a competent authority should not, ordinarily, be interfered with by an interlocutory order pending the proceeding before the Court. (**U.P. Rajya Krishi Utpadan Mandi Parishad vs. Sanjiv Rajan; Public Services Tribunal Bar Assn.**¹). By an interim order if an employee is allowed to continue in service, and ultimately the writ petition/O.A. is dismissed, it would then tantamount to usurpation of public office without any right to the same. **Public Services Tribunal Bar Assn.**¹; **State of Haryana v. Suman Dutta**. In view of the law declared in the aforesaid judgments of the Supreme Court, orders of suspension should not, ordinarily, be suspended by way of an interlocutory order. The Tribunal has not erred in denying the petitioner the interim relief sought for by him.

Sri V.Nitesh, learned counsel for the petitioner, would request that the Tribunal be directed to dispose of the O.A. expeditiously. We have no reason to doubt that, on a request being made in this regard, the Tribunal would hear and

dispose of the O.A. with utmost expedition.

The Writ Petition fails and is, accordingly, dismissed. Miscellaneous petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

RAMESH RANGANATHAN, J

M.SATYANARAYANA MURTHY, J

01st May, 2015.

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