

THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

CRIMINAL PETITION No.5761 of 2009

ORDER:

This petition is filed by the petitioner/A.22 for quashing all further proceedings in C.C.No.230 of 2009 on the file of the Judicial Magistrate of First Class, Adilabad, registered for the offences punishable under Sections 468, 471 and 420 r/w 120-B of IPC.

The allegations in brief are as under:-

The petitioner/A.22 is the then District Medical Health Officer, Adilabad. About 51 posts of Lab Technicians, Grade-II were notified for appointment in Adilabad District vide G.O.Ms.No.3107 of 1995, dated 16-05-1995. Several candidates appear to have approached the District Employment Officer with their certificates issued by RAMI Educational Academy, Hyderabad, certifying that they have completed the diploma in Lab Technician Course and requested the DEO to sponsor their names. The DEO got doubt as to whether the certificates issued by RAMI Educational Academy are valid. He accordingly addressed the petitioner/A.22 who was the D.M & H.O, Adilabad, seeking clarification. Immediately, the petitioner/A.22 addressed a letter to the Director of Medical and Health, Hyderabad, on 23-05-1995 seeking clarification in the matter. As per the schedule fixed by the competent authority, the written test was scheduled to be held on 11-08-1995. Before that date, the clarification sought for by A.22 was not received. A.22 once again sent a reminder through a Special Messenger seeking clarification. That was not received. However, on the date when the written examination was scheduled to be held i.e., 11-08-1995, the petitioner/A.22 was placed under suspension in connection with some other matter. The written examination was held and on the next day i.e., on 12-08-1995 oral interviews were conducted. The names of some of the candidates who are shown as

A.1 to A.20 in the charge sheet were sent by the DEO in pursuance to the orders of the APAT. After completing the interviews on 12-08-1995, the list was approved and it was in the process of dispatching the orders. In the meantime, clarification was received that the said institute by name RAMI Educational Academy is not a recognized institution. Therefore, the appointment orders were withheld. Subsequently, it appears that the non-petitioners/A.1 to A.20 obtained some orders and got the postings.

The allegation insofar as the petitioner/A.22 is concerned is that even though he was having a doubt about the genuineness of the institution, which issued the diploma certificates in favour of some of the candidates, he has proceeded with the process of conducting the written examination on 11-08-1995. The Selection Committee for the said appointment consisted of the District Collector, the Joint Collector, a subject specialist, Superintendent of Headquarter Hospital and Additional DM & HO. The petitioner was a Convenor of the Selection Committee.

The relevant accusation that is made against the petitioner/A.22 is that he conspired with A.1 to A.21 and A.24 in allowing the candidates for interview on the basis of the Diploma certificates issued by an institution, which was not recognized.

It is also on record that the non-petitioners/A.1 to A.20 have produced G.O.Ms.No.1037 of the year 1985, as per which RAMI Educational Academy was one of the recognized institutions for conferring the diplomas in Lab Technician courses. Investigation established that the said Government Order was fake. By the date of the issuance of the said Government Order, it is alleged that the said RAMI Educational Academy was not in existence. The substantive allegation is against the non-petitioners who are said to have faked the Government Order, produced the same before the authorities which stated that the said institution is a recognized institution.

The petitioner/A.22 has filed this petition and vide orders, dated

07-09-2009, this Court granted stay of all further proceedings insofar as the petitioner/A.22 is concerned. Therefore, the learned Judicial Magistrate of First Class, Adilabad, has separated the case against the petitioner/A.22 and proceeded with the trial against the non-petitioners/A.1 to A.21. The case against the present petitioner – A.22 and two others viz., A.23 and A.24 was separated in view of the stay of trial. During the course of trial, the prosecution examined PWs.1 to 30 and produced Ex.P.1 to Ex.P.40. On behalf of the accused, who faced the trial, DW.1 was examined and Exs.D.1 to D.4 were produced. By Judgment, dated 05-05-2014, after comprehensively discussing the entire evidence on record, the learned Magistrate found that the non-petitioners/A.1 to A.21 cannot be held responsible for the alleged offences and acquitted them.

From the above narration of facts, it is manifest that so far as the petitioner/A22 is concerned, the allegation against him is to the effect that he has issued Hall Tickets to the non-petitioners/A1 to A20 for the written examination scheduled to be held on 11.08.1995, even though they were possessing the diploma certificates issued by RAMI Educational Academy which was not recognized by the Government. The main allegations in the case are against the non-petitioners/A1 to A20 who are said to be all the candidates who applied for the post of Lab Technicians in the Medical & Health Department, Adilabad District and that they all produced the diploma certificates said to have been issued by RAMI Educational Academy which is not a recognized institution. It is also admitted fact that the written examination was scheduled to be held on 11.08.1995 for the said posts of Lab Technicians and as per the schedule fixed, on 12.08.1995 the oral interviews were held. It is also the fact that on 11.08.1995 itself in connection with some other incident, the petitioner/A22 who was working as District Medical & Health Officer has been suspended and in his place one Dr.A.Laxma Reddy, Additional District Medical & Health Officer became the incharge of the post of District Medical &

Health Officer. Written examinations were conducted on 11.08.1995 and on the next day itself i.e. on 12.08.1995 oral interviews were held.

It is also noticed from the record that the District Employment Officer got a doubt about the certificates produced by the non-petitioners/A1 to A20 and accordingly, he addressed a letter to the petitioner/A22, who was the District Medical & Health Officer and the petitioner/A22, in turn immediately addressed a letter to the Director of Medical & Health Department, Hyderabad seeking clarification. It is also admitted fact that since the clarification was not received, a reminder was also sent by the petitioner/A22, but till the date of written examination there was no response from the Director of Medical & Health Department, Hyderabad.

The non-petitioners/A1 to A20 have produced a Government Order i.e. G.O.Ms.No.1037, dated 13.02.1985 which shows that RAMI Educational Academy is a recognized institution to conduct training courses and issue Diplomas in the Lab Technician Courses. This Government Order is said to be fake, fabricated or forged and for that the persons who are alleged to be responsible are the non-petitioners/A23 and A24, who are said to be the Section Officer of HM & FW Department and the General Secretary of RAMI Educational Academy.

This criminal petition is filed to quash all further proceedings in C.C.No.230/2009 on the file of the Judicial Magistrate of First Class, Adilabad (in connection with Cr.No.13/2002 of CID, Hyderabad), registered for the offences punishable under Sections 468, 471 and 420 r/w.Sec.120-B IPC in so far as the petitioner/A22 is concerned.

Charged sheet has already been filed against as many as 24 accused persons and it was originally taken on file as C.C.No.230/2009 on the file of the Judicial Magistrate of First Class, Adilabad. Pending disposal of the case, the non-petitioner/A20 died. The petitioner/A22 filed the present criminal petition and obtained stay of all further proceedings. So also, the non-petitioners/A23 & A24

were not arrested. In that view of the matter, the learned Magistrate has split up the case against the petitioner/A22 and also the non-petitioners/A23 & A24 and disposed of the C.C.No.230/2009 by judgment dated 05.05.2014 in so far as it is against non-petitioners/A1 to A21, except A20, who died.

During course of trial, voluminous oral and documentary evidence has been produced by the prosecution. The prosecution examined PWs 1 to 30 and produced Exs.P1 to P40. On behalf of accused, DW 1 was examined and Exs.D1 to D4 were marked. The learned Magistrate after comprehensively discussing the entire evidence on record, acquitted the non-petitioners/A1 to A21 holding that none of them are responsible for the alleged offences.

A perusal of the judgment of the learned Magistrate shows that even in so far as the petitioner/A22 is concerned, nothing has come on record against him. The said judgment has become final.

From the findings of the learned Magistrate and also the evidence on record what is noticed is that there is no material whatsoever against the petitioner/A22 for proceeding against him for the offences punishable under sections 468, 471 and 420 r/w.Sec.120-B IPC. A bare reading of the charge sheet and the complaint itself shows that the role of the petitioner/A22 is very limited.

In pursuance of the orders of the Government, certain posts of Lab Technicians were notified to fill up the vacancies in the Medical & Health Department of Adilabad District. The Employment Exchange was addressed for sponsoring the eligible candidates for the said posts. The non-petitioners/A1 to A20 have approached the Employment Exchange Officer with their diplomas issued by RAMI Educational Academy. Since the name of RAMI Educational Academy was not figuring in the List of Approved Institutions, the Employment Exchange Officer addressed the petitioner/A22 who was the then District Medical & Health Officer, Adilabad District. The petitioner/A22 in turn immediately sought for a clarification from the

Director of Medical & Health Department, Hyderabad and when the clarification was not received in time, a reminder was also sent through a special messenger. The date for the written examination was scheduled to be held on 11.08.1995. Hall Tickets etc., were dispatched. However, on the date of examination i.e. on 11.08.1995 itself, in connection with some other matter, the petitioner/A22 was placed under suspension. Thereafter, oral interviews were conducted on 12.08.1995. Selection Committee for the said posts is consisting of the District Collector, the Joint Collector and two others. In so far as the petitioner/A22, the District Medical & Health Officer is concerned, he was the Convenor of the Selection Committee. It is not the case of the prosecution that it is the petitioner/A22 who has accepted the candidature of the non-petitioners/A1 to A20. On perusal of the contents of the charge sheet and the complaint and the judgment of the learned Magistrate, it is rendered in so far as the non-petitioners/A1 to A21 are concerned, I have no hesitation to hold that absolutely there is no material for proceeding with the criminal prosecution against the petitioner/A22, who was working as District Medical & Health Officer at Adilabad since retired and presently he is said to be aged more than 80 years. Therefore, continuing the criminal prosecution against the petitioner/A22 will be a clear abuse of process of law and the same cannot be allowed.

In view of the above, the Criminal Petition is allowed, the proceedings in the split up case from C.C.No.230/2009 on the file of the Judicial Magistrate of First Class, Adilabad (in connection with Cr.No.13/2002 of CID, Hyderabad), in so far as the petitioner/A22 is concerned, are hereby quashed.

Pending miscellaneous applications, if any, shall stand closed in consequence.

M.S.K.JAISWAL,J

Date: .10.2015
Dsr

