

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

AND

THE HON'BLE MRS. JUSTICE ANIS

WRIT PETITION No.27794 of 2015

ORDER: (per Hon'ble Sri Justice Nooty Ramamohana Rao)

The applicant in O.A.No.7457 of 2014 is the writ petitioner herein. His grievance, essentially, is that the Andhra Pradesh Administrative Tribunal (for short henceforth 'the Tribunal'), notwithstanding comprising of a judicial member, is not passing orders in accordance with law.

It appears O.A.No.7457 of 2014 was taken up along with VMA.No.170 of 2015 moved by the State in that case. By an order passed on 23.03.2015 that O.A. has been disposed of recording the statement said to have been made by the counsel for the applicant in that O.A. setting out that no further orders are required in the main O.A. It appears the counsel disputed the statement and consequently requested the Registry of the Tribunal through a letter circulated on 14.04.2015 to list the matter "for being mentioned". Accordingly, the matter was listed before the same bench on 30.04.2015. It directed the matter to be listed after vacation under the caption of "VMAs" duly directing the Government Pleader to obtain the necessary information. The Tribunal could not have passed this order on 30.04.2015, first of all, without setting aside its earlier order dated 23.03.2015 and also restoring the O.A. to file. Be that as it may, when the matter was again taken up on 10.07.2015, the following is the order that was passed by the Tribunal:

"This matter has come up under the Caption of "for being mentioned" today. The Registry is directed to post the OA under the Caption of 'for hearing' in the usual course. Hence, the 'for being mentioned' letter is answered."

Sri P.V.Krishnaiah, learned counsel for the writ petitioner, would submit that the procedure followed by the Tribunal is an erroneous procedure. The statement which is attributed to him, which is said to have been made by him was in fact never made by him, and that an erroneous assumption was made the basis for disposal of O.A. on 23.03.2015. When the error made by the Tribunal was brought to its notice, instead of recalling the order passed on 23.03.2015, it passed 2 different orders on 30.04.2015 and 10.07.2015. The order dated 10.07.2015 would imply that the Tribunal has restored the O.A. to its file, otherwise it could not have asked the registry to list the O.A.No.7457 of 2014 'for hearing' in the usual course, in as much as the said O.A. stood disposed of already on 23.03.2015. Be that as it may, since the Tribunal has not specifically mentioned that the earlier order dated 23.03.2015 stands revoked and O.A. stands restored to file, in normal circumstances the O.A. which is already disposed of, could not be re-listed for final hearing.

In fact, the procedure adopted by the Tribunal is very strange. If an O.A. is disposed of, even assuming that it was so done erroneously, only a review application is liable to be entertained to correct the error on the face of the record. The practice that is developed over long period of time in this Court to have the matters listed "for being mentioned" is for purpose of correcting an obvious mistake, which is mostly a ministerial one, but it is not intended to correct an error committed substantively in deciding a lis. For an error available on the face of the record, to get it corrected, the procedure that has got to be followed is specified under Order XLVII Rule 1 CPC, which provision is also extended to the writ petitions, but never on a letter 'for being mentioned'. If the original order is truly erroneous, it would be a different matter for the Court to exercise *suo motu* review power and correct the error on the face of the record of a case. 'For being mentioned'

practice is allowed for correcting errors such as mistaken dates, mistaken array of parties or the like, which are mostly non-substantive errors. To correct a substantive error, like in the instant case, the course that should be adopted by a party is to file an appropriate review petition. On filing the same, an order could have been passed by the judicial body reviewing its earlier order. Therefore, for the improper procedure followed by the Tribunal, as pointed out by the learned counsel for the petitioner, we have no choice except to set aside the orders passed by the Tribunal on 30.04.2015 and 10.07.2015 and remit the matter back for consideration afresh in accordance with law. Accordingly, the matter is remitted back to the Tribunal for consideration afresh in accordance with law.

The Tribunal would also realize that there is a vacate stay miscellaneous petition moved by the State in the O.A. Therefore, if that application is not taken up for consideration, it is the State which will have its interest effected by the Tribunal. Therefore, we require the Tribunal to bear this aspect of the matter also in mind.

With this, the writ petition stands disposed of at the admission stage after hearing the learned Government Pleader for Services (Telangana State). No order as to costs.

The miscellaneous applications, if any shall also stand closed.

JUSTICE NOOTY RAMAMOHANA RAO

JUSTICE ANIS

31.08.2015

Ksp

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND
THE STATE OF ANDHRA PRADESH**

WRIT PETITION NO.27794 OF 2015

Between:

Syed Yousufuddin

... Petitioner.

And

The Deputy Inspector General of Police and 5 others.

... Respondents.

DATE OF JUDGMENT PRONOUNCED:31.08.2015

SUBMITTED FOR APPROVAL:

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THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

AND

THE HON'BLE MRS. JUSTICE ANIS

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| 1. Whether Reporters of Local newspapers
may be allowed to see the Judgments? | No |
| 2. Whether the copies of judgment may be marked
to Law Reporters/Journals | No |
| 3. Whether Their Ladyship/Lordship wish to see the
fair copy of the Judgment? | No |