

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

WRIT PETITION NO.20473 OF 2011

Between:

N. Satyanarayana Raju

.. Petitioner

and

The Government of Andhra Pradesh, rep. by its
Principal Secretary to Government, Home
Department and others

.. Respondents

DATE OF JUDGMENT PRONOUNCEMENT : 13th AUGUST, 2015

SUBMITTED FOR APPROVAL:

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THE HON'BLE SRI JUSTICE SANJAY KUMAR

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| 1. | Whether Reporters of Local newspapers
may be allowed to see the judgment? | Yes/No |
| 2. | Whether the copies of judgment may be
marked to Law Reporters/Journals | Yes/No |

3. Whether His Lordship wishes to
see the fair copy of the judgment?

Yes/No

THE HON'BLE SRI JUSTICE SANJAY KUMAR

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WRIT PETITION NO.20473 OF 2011

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ORDER

This writ petition was filed assailing the proceedings dated ____03.2007 of the Director General of Police, Andhra Pradesh, Hyderabad, the second respondent, and seeking a consequential direction to the respondent authorities to refund the amount of Rs.44,203/- quantified by the Superintendent of Police, Vizianagaram District, in his letter dated 29.11.2005 with interest at 18% p.a.

The petitioner was provided police escort on payment of necessary charges by the Superintendent of Police, Vizianagaram District, the third respondent, pursuant to the orders passed by this Court. The petitioner states that he remitted a total amount of Rs.55,389/- for providing him police protection for three days. However, he claims that police escort was given to him only from 12.00 to 13.00 hours on 23.05.2004 and thereafter, no escort service was provided. As he was given the service only for one hour though he had paid for the entire three days, he addressed letter dated 05.09.2005 to the third respondent to refund the amount, after deducting the proportionate amount for the services extended for the duration of one hour. Thereupon, the third respondent calculated the amount refundable to the petitioner at Rs.44,203/-. But thereafter, no action was taken. Ultimately, the petitioner was informed by the third respondent under letter dated 14.06.2007 that his request for refund had been rejected by the second respondent under his letter dated ____03.2007. Aggrieved by such refusal, the petitioner

approached the District Consumer Forum-I, Hyderabad, in C.C.S.R.No.2158 of 2007. By order dated 03.03.2008, the District Forum rejected the complaint on the point of jurisdiction. The matter was then carried in appeal to the A.P. State Consumer Disputes Redressal Commission at Hyderabad in Appeal F.A.No.584 of 2008. The Commission however refused to entertain the same holding that the petitioner ought to have approached this Court. Thereupon, he filed the present writ petition.

The Superintendent of Police, Vizianagaram, filed a counter-affidavit admitting that the petitioner had remitted, in all, a sum of Rs.55,389/- for providing police escort to him in relation to delivering the E.P. schedule properties in A.T.C.Nos.2, 4, 5, 8, 9 and 12 of 1989 on the file of the Tenancy Court at Cheepurupally. He further stated that police escort, consisting of a Reserve Sub-Inspector, 3 Head Constables and 18 Police Constables, was provided to him from 09.00 hours to 17.00 hours (8 hours) on 23.05.2004. He conceded that due to some administrative reasons, the escort provided to the petitioner was withdrawn on the same day at 17.00 hours and was not extended to him thereafter. The Superintendent of Police admitted that the petitioner submitted representation dated 05.09.2005 to his office requesting refund of the amount after deducting necessary charges for the service availed. The value of the service provided to the petitioner on 23.05.2004 was worked out at Rs.11,186/- and after deducting the same, the Superintendent of Police, Vizianagaram, stated that he addressed a letter to the second respondent seeking permission to refund the balance amount of Rs.44,203/-. However, the second respondent, under his communication dated _____.03.2007, rejected the said proposal. It is on this basis that the Superintendent of Police, Vizianagaram, justified his action. It appears that even after filing of the counter-affidavit, the Superintendent of Police, Vizianagaram, continued to address letters to the second respondent requesting that the Government be addressed for seeking permission for refunding the balance amount due to the

petitioner. The letter dated 27.06.20015, being the last in the progression of such letters, is produced before this Court, wherein the Superintendent of Police, Vizianagaram, again requested the second respondent to address a letter to the Government of Andhra Pradesh for seeking necessary permission to refund the balance amount to the petitioner. Significantly, neither the second respondent, the Director General of Police, Andhra Pradesh, nor the Government of Andhra Pradesh, the first respondent, chose to file a counter explaining their stand.

The letter dated ____ .03.2007 of the second respondent addressed to the third respondent reads as under:

‘With reference to the above, it is informed that User Charges once collected and deposited in Govt., Account is not refundable in part as the service was extended by the Government and utilized by the petitioner for the purpose which it was sought for.’

In the light of the aforestated admitted facts, it is clear that the petitioner was not provided the service for which he had paid the full amount of Rs.55,389/-. According to the Superintendent of Police, Vizianagaram, a sum of Rs.44,203/- was refundable to the petitioner. The stand of the Director General of Police, Andhra Pradesh, Hyderabad, that once user charges are collected and deposited in the Government Account, they are not refundable in part as service was extended by the Government and utilized by the petitioner does not stand to reason. It is nobody’s case that the petitioner was extended the full service that he paid for. Once the respondent authorities fell short in providing the service in terms of the amount collected by them, it is not open to them to say that no amount is refundable as it has already been appropriated. Such appropriation would be nothing short of unjust enrichment.

The principle of unjust enrichment proceeds on the basis that it would be unjust to allow one person to retain a benefit received at the expense of another person. It provides the theoretical foundation for the law governing restitution. [**RENUSAGAR POWER COMPANY LIMITED**

V/s. GENERAL ELECTRIC COMPANY^[1]].

The principle of unjust enrichment finds recognition in Sections 70 and 72 of the Indian Contract Act, 1872. Section 70 reads as under:

‘70. Obligation of person enjoying benefit of non-gratuitous act.—Where a person lawfully does anything for another person, or delivers anything to him, not intending to do so gratuitously, and such other person enjoys the benefit thereof, the latter is bound to make compensation to the former in respect of, or to restore, the thing so done or delivered.’

In the present case, the petitioner parted with his monies only on the assurance that he would be provided police escort for the full three days. Admittedly, such service was not provided owing to some administrative reasons and the failure in this regard was not attributable to the petitioner. The amounts were not paid by the petitioner to the State gratuitously. But the State, having appropriated the amount paid by him, not only denied him the benefit for which it was paid but also refused to refund the balance amount due to him for the service left unprovided. Thus, the petitioner is essentially seeking restitution.

This Court therefore has no hesitation in holding that the action of the State in withholding the rightful amount due to the petitioner, despite failing to provide him the service for which he had paid it, is wholly illegal and unsustainable. As the petitioner has been deprived of his rightful monies for all these years, the State would be bound to compensate him for such unjust deprivation by paying interest on the principal amount due.

The writ petition is therefore allowed directing the first respondent to refund the principal amount due, as quantified by the Superintendent of Police, Vizianagaram, in his letter dated 29.11.2005, with interest at 9% per annum, being the general bank rate of interest on long term fixed deposits. This amount shall be remitted to the petitioner within four weeks from the date of receipt of a copy of this order. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order.

Before parting with the case, it may be noticed that this writ petition was instituted against the Government of Andhra Pradesh. However, the Government of Andhra Pradesh is not *sui juris*. Under Article 300 of the Constitution and Section 79 CPC, the State has to be sued in its own name. However, as this writ petition has been pending consideration before this Court for over four years, it is not liable to be dismissed on this technical ground. The Registry is therefore directed to substitute 'State of Andhra Pradesh' in the place of 'Government of Andhra Pradesh' in the description of the first respondent in the cause title before issuing a copy of this final order.

No order as to costs.

SANJAY KUMAR, J

13th AUGUST, 2015

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[\[1\]](#) 1994 Supp (1) SCC 644