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

TUESDAY, THIS THE 28TH DAY OF APRIL
TWO THOUSAND AND FIFTEEN

PRESENT

THE HON'BLE SRI JUSTICE R.KANTHA RAO

WRIT PETITION No.288 of 2014

Between:

Mohd.Liyakath Ali and another

..... PETITIONERS

And

The Government of A.P. Minority Welfare (Vigilance) Dept. rep. by its Special Secretary to Govt., Hyderabad and another

.....RESPONDENTS

The Court made the following:

THE HON’BLE SRI JUSTICE R.KANTHA RAO

WRIT PETITION No.288 of 2014

ORDER:

This writ petition is filed under Article 226 of the Constitution of India by the petitioners to issue a writ of mandamus by declaring the Memo No.8529/Vigilance/A-1/2012, dated 27.12.2013 issued by the first respondent rejecting the request of the petitioners to reinstate them into service pending enquiry proceedings as arbitrary, illegal, capricious and discriminatory in the light of reinstating the Vice-Chairman and the Managing Director of A.P. State Minorities Finance Corporation Limited under G.O.Rt.N.4593, dated 23.10.2013 and consequently to set aside the same with a direction to reinstate the petitioners into service.

2. The petitioners are the officers in A.P. State Minorities Finance Corporation Limited, second respondent herein which was handling huge scholarship funds. A financial scam involving in Rs.79.01 Crores occurred in the second respondent Corporation resulting in loss o Rs.59.01 Crores to the government.

3. The first petitioner is the General Manager and the second petitioner is the Accounts Officer in the second respondent Corporation. Basing on the report submitted by the Vice-Chairman and Managing Director of the Corporation, a case in F.I.R.No.91 of 2012 dated 09.10.2012 was registered under Sections 409, 420, 467, 472, 120-B of IPC against the officials of the second respondent and others. The C.I.D. Hyderabad has investigated into the crime. During the course of investigation, four accused viz. Chunduri Venkata Koti Sai Kumar and three others were arrested and were released on bail. It is submitted that neither in the F.I.R. nor in the record of investigation the names of the petitioners were found either as accused or as witnesses, but by impugned proceedings, dated 10.10.2012 basing on the government memo, the petitioners were placed under suspension. The petitioners filed two writ petitions and in the said writ petitions, the petitioners were permitted to make a representation to the first respondent and in turn, the first respondent was directed to consider the representation and take appropriate decision within a period of six weeks. Accordingly, the first respondent by memo, dated 27.12.2013 rejected the request of the petitioners on the ground that the enquiry proceedings were already initiated against them and it was not in the public interest to reinstate them into service. Challenging the said memo, the petitioners filed the present writ petition.

4. It is contended on behalf of the petitioners that the Vice-Chairman and the Managing Director, A.P. State Minorities Finance Corporation Limited who was placed under suspension in the light of the investigation in the aforesaid crime was reinstated into service by G.O.Rt.No.4593, dated 23.10.2013; whereas the petitioners whose role was not found in the investigation by the CBCID were continued under suspension under the guise of public interest. According to the petitioners, the respondents cannot adopt different yardsticks in the matter of reviewing the suspension orders among the officials of the first respondent Corporation. It is further submitted by them that the Additional Director General of Police, CID, Hyderabad addressed a letter dated 06.11.2013 to the second respondent stating that the material collected during the course of investigation did not reveal criminal involvement of the petitioners in the fixed deposit scam of the Corporation. Therefore, the petitioners filed the present writ petition seeking a writ of mandamus to declare the memo whereunder the petitioners were suspended as illegal, and to reinstate them into service pending enquiry.

5. Counter affidavit and additional counter affidavit have been filed by the second respondent contending *inter alia* that the special audit team constituted for audit purpose as well as two men committee appointed for investigating the scam clearly pointed out about the involvement of the petitioners in the scam as it was evident from the records. The second respondent belongs to IFS cadre of 1985 batch and he worked on deputation in the Corporation, All India Service Officers are governed by the All India Services Disciplinary and Appeal (D & A) Rules, 1969, and therefore, the Government have taken a decision to revoke the suspension of the Vice-Chairman and Managing Director and repatriated him to his parent department pending disciplinary action against him and as such, basing on the revocation of the suspension of the Vice-Chairman and Managing Director, the petitioners cannot claim that they are also liable to be reinstated into service.

6. Nextly, it is contended that further investigation is ordered into the matter and if the petitioners are reinstated into service, there is every likelihood of their tampering with the records and influencing the enquiry. Therefore, according to the respondents, the representation submitted by the petitioners was rejected in the interest of administration and also in the public interest.

7. Nature of charges levelled against the petitioners warrant launching of criminal prosecution as well as initiating disciplinary proceedings. In law, the criminal prosecution and the disciplinary proceedings can be taken up simultaneously and both are independent. It is contended on behalf of the petitioners that according to the petitioners, they were not attributed with any criminal offence and therefore, the proceedings whereunder they were suspended are required to be revoked.

8. As to this, the contention of the respondents is that though in the preliminary investigation, the criminal involvement of the petitioners is not made out, they cannot escape departmental action as they were in-charge of preparation of cheques and accounts of the Corporation and handing over cheques and fixed deposits etc. to the third parties. According to the petitioners, the first petitioner is the General Manager of the Corporation and he is the joint signatory of the cheques of the corporation, the second petitioner being the accounts officer is responsible for preparation of cheques of the corporation. Therefore, according to the respondents it cannot be said that the petitioners are not at all concerned with the entire episode.

9. Unless it is found that the action of the department is arbitrary and prompted by *mala fides* or in violation of the statutory rules, this Court would not interfere with the order of suspension pending enquiry.

10. In the light of the order passed by this Court in the earlier writ petitions to consider representations made by the petitioners and to pass appropriate orders, the authorities have reviewed the suspension and by a reasoned

order rejected the request of the petitioners to revoke the suspension. Since the departmental proceedings are independent of the criminal prosecution, the petitioners cannot claim that their suspension has to be revoked as the preliminary investigation does not reveal their involvement in the scam which took place in the second respondent corporation. Under these circumstances, this Court is of the view that there are no valid grounds to set aside the impugned memo whereunder the petitioners' request for reinstatement was rejected. I absolutely see no merit in the contention put-forth by the petitioners.

11. In view of the aforesaid discussion, the writ petition fails and it is dismissed without any order as to costs. Pending miscellaneous petitions, if any, shall stand closed in consequence.

R.KANTHA RAO,J

Date:28.04.2015
Ccm

THE HON'BLE MR JUSTICE R. KANTHA RAO

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