

HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
THE HON'BLE SRI JUSTICE S.V. BHATT

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Writ Appeal No.757 of 2015

Date: 08.09.2015

Between:

Edara Harbabu,
Ongole,
Prakasham District.

Appellant

And

The State of Andhra Pradesh,
Represented by its Principal Secretary,
Panchayat Raj and Rural Development,
Hyderabad and others.

... Respondents

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PC: (Per the Hon'ble the Acting Chief Justice Dilip B. Bhosale)

This writ appeal is directed against the order dated 13.7.2015 passed in Writ Petition No. 20950 of 2015, whereby, learned Single Judge has dismissed the writ petition holding that the appellant is not entitled to the reliefs sought by him.

2. In the writ petition, the appellant sought declaration that the action of respondent Nos.2, 3 and 4 in keeping the Office of the Chairman of Zilla Praja Parishad, Prakasam District, under lock and key and preventing the appellant from discharging his duties and functions as a Chairman and Member representing Ponnaluru Mandal, as arbitrary, illegal, unjust and violative of fundamental and constitutional rights guaranteed under the Constitution of India. Appellant has also stated that the impugned action of the respondents is contrary to the judgment dt. 7.11.2014 passed by a learned Single Judge in Writ Petition Nos. 30790 and 30791 of 2014 and the order dated 9.1.2015 in S.L.P. Nos. 36764 and 36773 of 2014, and has ultimately prayed for consequential direction to the respondents to forthwith open the Office of the Chairman, Zilla Praja Parishad, Prakasam District, and permit appellant to discharge his duties as a Member and Chairman of Zilla Praja Parishad.

3. The case of appellant in a nutshell is that the Collector vide his order dated 11.8.2014, disqualified the appellant from being a Member and Chairman of Zilla Praja Parishad since he disobeyed the

whip issued by his party. That order was challenged by the appellant in E.O.P. No. 8 of 2014 before the District Court and in the E.O.P., he filed an interim application bearing No. 1967 of 2014 seeking stay of disqualification order dated 11.8.2014. Interim application was rejected vide order dated 7.10.2014. That order was carried to this Court in two writ petitions, bearing Writ Petition Nos. 30790 and 30791 of 2014. Both the writ petitions were allowed by learned Single Judge vide order dated 7.11.2014 quashing and setting aside the order dated 11.8.2014 issued by the Collector and order dated 7.10.2014 passed by the District Court dismissing the interim application, by which, he was disqualified as a Member and Chairman of Zilla Praja Parishad. The learned Single Judge also directed the Court below to dispose of the E.O.P. in accordance with law, uninfluenced by order dated 11.7.2014 or its order dated 7.10.2014. This order of the learned Single Judge was then carried in writ appeals, bearing Writ Appeal Nos. 1386 and 1388 of 2014. In the appeals, the Division Bench passed interim order dated 10.12.2014, directing the Vice Chairman to discharge the functions of the Chairman until further orders. The writ appeals, we are informed, are pending. Against the said order of the Division Bench, the appellant preferred Special Leave to Appeal bearing S.L.P. No. 36764 of 2014. In the S.L.P. on 9.1.2015, the Supreme Court issued notice and passed interim stay of the impugned judgment of the High Court, i.e., the order of the Division Bench dated 10.12.2014 in Writ Appeal Nos. 1386 and 1388 of 2014. Thereafter, it has come on record that the S.L.P. was heard by the Supreme Court on 27.2.2015 after notices were served, and on that date, the S.L.P. was adjourned as prayed for by the learned counsel for the appellant for filing rejoinder affidavit. He made a statement, which was recorded by the Supreme Court in order dated 27.2.2015 that until further orders, the appellant shall not press the contempt petition filed before the High Court. It is not in dispute that the appellant filed Contempt Case before this Court bearing C.C. No. 164 of 2015, seeking action against the respondents for non-compliance of the order passed by

learned Single Judge dated 7.11.2014 in W.P. Nos. 30790 and 30791 of 2014. A statement was made by the appellant not to prosecute the contempt proceedings further before the Supreme Court, which was recorded in the order dated 27.2.2015, that the appellant shall not press the contempt petition.

4. In this backdrop, we are informed that S.L.P. has been heard by the Supreme Court for final disposal on 21.8.2015, and it is closed for judgment.

5. Learned Single Judge, while dealing with the instant writ petition, has taken the sequence of events as aforementioned into consideration, and in paragraph-8, observed thus:

“The claim of petitioner that he is entitled to discharge his functions as Chairperson of Zilla Praja Parishad and Zilla Parishad Territorial Constituency Member flows out from the judgment of this Court in W.P.Nos.30790 and 30791 of 2014. The said decision of learned single Judge and entitlement of petitioner to discharge the functions as Chair Person and as Zilla Parishad Territorial Constituency Member is the subject matter of W.A.Nos. 1386 and 1388 of 2014 and SLP No 36764 and 36773 of 2014. In the instant writ petition, the petitioner is in effect seeking enforcement of the orders passed by the learned single Judge in W P Nos. 30790 and 30791 of 2014. As petitioner is a party to pending Writ Appeals and Special Leave Petitions, he can seek appropriate directions regarding his entitlement to discharge the functions as Chair-person of Zilla Praja Parishad and as Zilla Parishad Territorial Constituency Member, in those cases, if he is so advised. On the same subject matter present writ petition is not maintainable. Though petitioner filed C.C. No. 164 of 2015 alleging non compliance of the orders passed by the learned single Judge, but when S.L.P. No. 36764 of 2014 was taken up for consideration, petitioner stated before the Supreme Court that he would not prosecute contempt case before High Court. Having given such an undertaking, petitioner can not file another writ petition seeking implementation of orders of learned single Judge. It amounts to abusing the process of the Court.”

6. It is pertinent to note that after the statement was made in the S.L.P. on 27.2.2015 as aforementioned, the appellant filed the instant writ petition on 6.7.2015. As rightly observed by the learned Single Judge, it was open to the appellant to seek appropriate directions regarding his entitlement to discharge the functions as Chairman of Zilla Praja Parishad either at the stage when the Supreme Court passed interim order on 9.1.2015 or on 27.2.2015. The appellant did not make

any such prayer before the Supreme Court and seemed to have filed the instant writ petition only on 6.7.2015 seeking prayers, as aforementioned, and in this view of the matter, we are not inclined to pass any order at this stage for two reasons. Firstly, if the S.L.P. is allowed by the Supreme Court, which is already closed for judgment, perhaps, the appellant would be entitled for everything that he has prayed for, and secondly, if the S.L.P. is dismissed, he would not be entitled to function as Chairman of Zilla Praja Parishad in view of the orders of this Court dt. 10.12.2014. The appellant on one hand make statement in Supreme Court not to further prosecute C.C. No. 164 of 2015 and simultaneously pray for a Mandamus to act according to the order of learned Single Judge in W.P. Nos. 30790 and 30791 of 2014. Since the Supreme Court has closed the matter for judgment, we are not inclined to interfere with the order passed by the learned Single Judge. Hence, the writ appeal is dismissed.

7. This however shall not preclude the appellant from filing an application for appropriate relief in the writ appeals, bearing Writ Appeal Nos.1386 and 1388 of 2014, which are pending for final hearing, if the circumstances so demand and changed circumstances enable filing any petitions.

8. Consequently, pending miscellaneous applications shall also stand closed.

DILIP B. BHOSALE, ACJ

S.V. BHATT, J

8th September, 2015

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