

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA & THE STATE OF ANDHRA PRADESH
(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY FIFTH DAY OF FEBRUARY
TWO THOUSAND AND FIFTEEN
PRESENT

THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

WRIT PETITION No.4489 of 2015

BETWEEN

G. Mahender.

... PETITIONER

AND

The APSRTC, Rep. by its VC & MD, Musheerabad, Hyderabad, and
another.

...RESPONDENTS

Counsel for the Petitioner: MR. P. SRIDHAR RAO

Counsel for the Respondents: MR. B.MAYUR REDDY

The Court made the following:

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ORDER:

Petitioner, who was working as a Driver Grade.II, was issued an

order of suspension on 10.12.2014 in view of the bus driven by the petitioner was found involved in a fatal accident. The said order of suspension is based upon a preliminary enquiry conducted wherein it was opined that the petitioner and the bike rider were both held responsible. The petitioner has also been given a charge sheet on the same day and disciplinary enquiry is stated to be pending. The present writ petition is filed questioning the order of suspension as well as the charge sheet.

2. Learned counsel for the petitioner strenuously contends that for no fault of the petitioner, he has been placed under suspension. Learned counsel has placed strong reliance upon the proceedings of the Joint Accident Enquiry Committee dated 10.12.2014 wherein the Committee merely stated that the accident took place on account of lack of anticipation on the part of the petitioner. Learned counsel points out that three persons were riding on the bike, which suddenly came on to the road and the rider of the bike applied breaks and dashed against the bus. Hence, so far as petitioner is concerned,

it cannot be said that he is any way responsible for or caused the accident. Learned counsel for the petitioner relied upon a decision of the Division Bench of this Court in **P. RAJENDER v. UNION OF INDIA**^[1] to contend that suspension cannot be ordered in a routine manner simply because the rules permit. Learned counsel, therefore, submits that the order of suspension is passed, though the petitioner is not at fault and as such, even if the disciplinary enquiry is to proceed, the suspension deserves to be revoked.

3. I am unable to appreciate the contention of the learned counsel for the petitioner inasmuch as the order of suspension as well as the charge sheet given to the petitioner is on account of the fatal accident in which the bus driven by the petitioner was found involved.

The preliminary enquiry report, at this stage, is only to enable the competent

authority to come to a provisional conclusion and that by itself is not conclusive. A regular enquiry, which is proposed to be held, would ultimately give finding as to whether petitioner is guilty of the charge or not and if really it is not the fault of the petitioner,

it is open for him to lead such evidence before the said enquiry. However, at this stage, the satisfaction of the competent authority cannot be substituted by the discretion exercised by this Court under Article 226 of the Constitution of India when the suspension was found warranted in view of the fatal accident.

4. The Division Bench decision of this Court in **P. RAJENDER's** case (1 supra) is clearly distinguishable on facts as it was specifically found in para 10 therein that the impugned order was passed seven months after the charge sheet was filed and as such, the Division Bench found no justification for passing the order of suspension when charge sheet is already filed. That apart in para 32, it was specifically observed that '*... Although this Court, while exercising the jurisdiction under Article 226 of the Constitution of India, may not ordinarily interfere in such matter, but, having regard to the peculiar facts and circumstances of this case and keeping in view the conclusions arrived at, we are of the opinion that it is a fit case where this Court should interfere in the matter.*' The facts of the present case totally being dissimilar and it is not as if the order of suspension is passed merely for the sake of it, as the fatal accident cannot be denied. In these circumstances, I am not inclined to interfere with the same.

However, the disciplinary enquiry pending against the petitioner shall be completed expeditiously, preferably, within a period of one month from the date of receipt of a copy of this order.

The writ petition is disposed of. As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

VILAS V. AFZULPURKAR, J

February 25, 2015

Note: Furnish C.C. of the order within two days.
(**B/o**) DSK

[\[1\]](#) 2001 (5) ALD 290 (DB)