

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.P.No.32299 of 2016

ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader for the respondents.

2. The petitioner has filed this Writ Petition for speedy disposal of Cr.No.0613 of 2013 on the file of the Station House Officer, Police Station Malkajgiri, Cyberabad, Ranga Reddy District and also not to transfer the said crime to the file of Station House Officer, Police Station Telibanda, Chhattisgarh State.

3. The petitioner was appointed in the National Seeds Corporation Limited, New Delhi on 22-04-2009 and he is serving in the said office as Seed Officer. He belongs to the Scheduled Caste community. He contended that during seven years of service, he had been transferred five times without any reason, that this amounts to harassment on the ground of his social status and his superior officers were obstructing his growth and promotional avenues. He contended that he was posted five times without any reason and a punishment of withholding two increments of pay with cumulative effect was also imposed by proceedings dt.19-07-2012, but he challenged the same in this Court in W.P.No.13116 of 2013 and this Court granted stay of the said penalty. According to him, on the ground that he challenged this order, his superior has stopped his promotion. He alleged that his Annual Confidential Report (ACR) for the year 2011-12 was written by his junior and was accepted by the Head Office vide Memorandum

dt.03-10-2012, that ACR for the year 2012-13 was written by Sri Bhagwati Prasad, Seed Officer, in-charge, Quality Control Laboratory (South) who is the petitioner's senior and was sent to the General Manager (Production-Quality Control) in the National Seeds Corporation Limited at New Delhi and the same was accepted without seeking any comments from the petitioner. He alleged that his superior officers connived with each other and sent his ACR for the period from 01-10-2013 to 31-03-2014 for reviewing/rewriting the same against the rules and instructions and they had degraded the marks awarded to him in an arbitrary manner and this amounts to harassment.

4. Raising these grievances, petitioner filed a private complaint under Section 200 Cr.P.C. against his superior officers alleging that they committed offences under Section 3 (1) (viii) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'the Act, 1989) read with Sections 120 B and 500 IPC. He alleged that this was referred to 5th respondent and was registered as Cr.No.0613 of 2013 on the file of 5th respondent, that the respondents concluded that the case required investigation under the jurisdiction of Police Station, Telibanda, Chhattisgarh State and the file was transferred to the said State though it can be tried in the respondents' jurisdiction. He alleged that the respondents failed to investigate the case and file a charge sheet or to make any arrest though almost three years have elapsed since then and this also constitutes harassment of the petitioner. He also alleged that ACR of

the year 2014-15 has not been prepared till now with *mala fide* intention. He therefore sought a direction to the respondents for a speedy disposal of investigation in Crime No.0613 of 2013 on the file of 5th respondent and also direct the respondents not to transfer the said crime from 5th respondent to Police Station Telibanda, Chhattisgarh State.

5. Learned counsel for the petitioner reiterated the said contentions.

6. The Act was intended to prevent the commission of offences of atrocities against the members of the Scheduled Castes and Scheduled Tribes, to provide for Special Courts for the trial of such offences and for the relief of rehabilitation of the victims of such offences and for matters connected therewith or incidental thereto. It defines the term “atrocities” in clause (a) of sub Section (1) of Section 2 as an offence punishable under Section 3. Section 3 has several clauses which indicate the nature of offences which are punishable under the Act.

7. Section 3 (1) (viii) of the Act, 1989 states that “*whoever, not being a member of a Scheduled Caste or Scheduled Tribe institutes false, malicious or vexatious suit or criminal or other legal proceedings against a member of a Scheduled Caste or a Scheduled Tribe shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to five years and with fine.*”

8. A reading of the grievances of the petitioner suggests that the petitioner claims to have been harassed by his superior officers for transferring him without any reason, for imposing of penalty of withholding of two increments of pay with cumulative effect by order dt.19-07-2012 and not properly writing his ACRs.

9. The grievances of the petitioner against his superior officers cannot be fall in the category of an 'atrocities' within the meaning of the said term under Sec.2(1) (a) of the Act.

10. However, this is not to say that the grievance of the petitioner with regard to his transfers, imposition of penalty or preparation of ACRs is not a grievance and the petitioner is not affected by such actions of his employer. But the remedy of the petitioner for such actions of his employer by way of review under Article 226 of the Constitution of India in the jurisdictional High Court and not by way of filing a complaint under the provisions of the Act.

11. In **K.ARAVINDA RAO Vs. A.Sunder Kumar Das and others¹**, a Division Bench of this Court to which one of us (MSRJ) was a party dealt with a similar case where a person belonging to Scheduled Caste, holding the rank of Superintendent of Police, made a similar complaint against the Additional D.G.P.(Intelligence) that he was not considered for posting as District In-charge since 2004 and the latter had committed offence under the provisions of the Act. Rejecting the said contention, this Court held:

¹ 2016 (2) ALD (Criminal) 460

“We are of the opinion that the grievance of the 1st respondent in relation to his postings, which is a service dispute, normally adjudicated before the Central Administrative Tribunal, has been given the colour of an “atrocious” under the Act.”

12. Therefore, I am of the opinion that the question of granting any relief to the petitioner in this Writ Petition does not arise.

13. Accordingly, the Writ Petition is dismissed granting liberty to the petitioner to agitate his grievances in judicial review in regard to imposition of penalty, ACRs or any other service dispute.

No costs.

14. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 01-11-2016
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