

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

W.P.No.20176 of 2016

ORDER

This writ petition is filed seeking to declare the action of the 2nd respondent in not permitting the petitioner to report to duty and in not paying salary to the petitioner as arbitrary and illegal.

The petitioner was appointed as Trade Sales Manager *vide* letter dated 4.11.2013 by the 2nd respondent-Bank. As per Clause No.10 of the appointment letter, his services are liable for termination with three months of the notice or pay in lieu thereof. In relation to a transaction between a customer of the 2nd respondent-Bank and the petitioner, the details of which are not relevant for the purpose of disposal of the present case, the petitioner left the office. When the petitioner went to Chennai, it appears that the second respondent sent a letter dated 4.12.2015 to the petitioner to re-join the office, but the petitioner could not respond to the same. However, he submitted a reply on 31.12.2015 followed by a notice dated 11.2.2016 seeking clarification of his status in the bank. The grievance of the petitioner is that his services were terminated without passing any order and without giving him fair opportunity. Challenging the same and aggrieved by the action of

the respondents in not permitting him to report to duty and in not paying him the salary, the present writ petition is filed by the petitioner.

A reading of the averments made in the affidavit filed in support of the petition shows that the petitioner was employed in the second respondent-Bank and the second respondent-Bank is not a State within the meaning of Article 12 of the Constitution of India. The writ petition itself is not maintainable and a Division Bench of this Court in *B.S.K.Madhavi vs.Kotak Mahindra Bank Ltd & Ors* ^[1] held that the writ petition under Article 226 of the Constitution of India against a private bank cannot be entertained. The said decision was rendered while examining the provisions of SARFAESI Act. Thus the writ petition against a private bank cannot be entertained. Even otherwise also, the averments made in the affidavit do not clearly disclose any cause of action and it needs enquiry into facts which cannot be done under Article 226 of the Constitution of India. The petitioner himself admits that the second respondent is amenable to the jurisdiction of the authorities constituted under the Andhra Pradesh Shops and Establishments Act, 1988. In view of the same, it is open to the petitioner to take appropriate proceedings in accordance with law.

Accordingly, the Writ Petition is dismissed as not maintainable. No costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

JUSTICE A.RAMALINGESWARA RAO

24th June, 2016
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[\[1\]](#) 1 (2013) BC 15 (DB) (CN)