

In the High Court of Judicature at Hyderabad
for the State of Telangana and the State of Andhra
Pradesh

Writ Petition Nos.22443 & 22854 of 2016

Between:

WP.22443/16

Putta Siva Rama Krishna

..Petitioner

and

The State of AP.,
rep. by its Prl.Secretary
Health, Medical and
Family Welfare Dept.,
Secretariat, Hyderabad and 3 others

..Respondents

WP.22854/16

N.Sudershan

..Petitioner

and

The State of Telangana,
rep. by its Spl.Chief Secretary
MA & UD (F1) Dept.,
Secretariat, Hyderabad and 3 others

..Respondents

Date of Judgment Pronounced: 14-07-2016

Submitted for Approval:

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

and

The Hon'ble Sri Justice G.Shyam Prasad

1. Whether Reporters of Local newspapers Yes/No
may be allowed to see the judgments ?

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2. Whether the copies of judgment may be Yes/No
marked to Law Reporters/Journals

3. Whether Their Ladyship/Lordship wish to Yes/No
see the fair copy of the Judgment ?

(C.V.Nagarjuna Reddy, J)

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(G.Shyam Prasad, J)

*** The Hon’ble Sri Justice C.V.Nagarjuna Reddy**
and
The Hon’ble Sri Justice G.Shyam Prasad

+ Writ Petition Nos.22443 & 22854 of 2016

% Dated 14-07-2016

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...Respondents

! Counsel for the petitioner in WP.22443/16:
Mr.P.Amarender

^ Counsel for respondent Nos.1 to 3: GP for Services (AP)

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>HEAD NOTE:

? Cases cited:

NIL

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The Hon’ble Sri Justice C.V.Nagarjuna Reddy
and
The Hon’ble Sri Justice G.Shyam Prasad

Writ Petition Nos.22443 & 22854 of 2016

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Counsel for the petitioner in WP.22443/16:

Mr.P.Amarender

Counsel for respondent Nos.1 to 3:

GP for Services (AP)

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MA & UD (F1) Dept.,
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..Respondents

Counsel for the petitioner: Mr.P.Balakrishna Murthy

Counsel for respondent Nos.1 & 3:

GP for Services (TS)

Counsel for respondent No.2:

**Mr.P.Kesava Rao,
SC for GHMC**

The Court made the following:

Common Order: (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

In both these Writ Petitions, the common grievance of the petitioners, who have different causes of action before the Andhra Pradesh Administrative Tribunal, Hyderabad (for short 'the Tribunal'), is that their request for grant of interim relief is not being considered.

A perusal of the orders of the Tribunal in both these cases shows that while admitting the OAs, notice returnable in six weeks was issued to the respondents.

Mr.P.Balakrishna Murthy, learned Counsel for the petitioner in WP.No.22854 of 2016, and Mr.P.Amarender, learned Counsel for the petitioner in WP.No.22443 of 2016, submitted that though their respective clients have claimed specific interim reliefs, the same were not considered by the Tribunal while admitting the OAs. They further submitted that once the OAs are admitted, presently the Tribunal is not following the practice of hearing the requests for grant of interim orders pending the

OAs and that as a result of the same, either the parties have been suffering the orders impugned before the Tribunal till the OAs are disposed of or they are being forced to approach this Court to consider their requests for grant of interim orders pending the OAs.

Section 22 of the Administrative Tribunals Act, 1985 (for short 'the Act'), while making it clear that the Tribunal shall not be bound by the procedure laid down in the Code of Civil Procedure 1908, however, charged the Tribunal with the obligation to follow the principles of natural justice and subject to the other provisions of the Act and any Rules made by the Central Government, it is vested with the power to regulate its own procedure including fixing of places and times of its inquiry and decide whether to sit in public or in private.

Under Sub-Section (2) of Section 22 of the Act, the Tribunal shall decide every application made to it as expeditiously as possible and ordinarily, every application shall be decided on a perusal of the documents and written representations and after hearing such oral

arguments as may be advanced.

Section 24 of the Act, which starts with a *non-obstante* clause, ordains that no interim order, whether by way of an injunction or stay or in any other manner, shall be made on, or in any proceedings relating to, an application, unless (a) copies of such application and of all documents in support of the plea for such interim order are furnished to the party against whom such application is made or proposed to be made and (b) opportunity is given to such party to be heard in the matter. However, the Tribunal is vested with the power to dispense with the procedure under Clauses (a) and (b) and make the interim order as an exceptional measure if it is satisfied, for the reasons to be recorded in writing, that it is necessary to do so for preventing any loss being caused to the applicant, which cannot be adequately compensated in money.

A reading of the above-noted provisions *inter alia* makes it clear that the Tribunal's discretion to regulate its own procedure is subject to the other provisions of the Act. Section 24 of the Act, as

noted above, envisages a procedure for considering grant of interim orders. A proper analysis of this provision reveals that ordinarily, an interim order is made by the Tribunal after the applicant furnishes copies of application and all documents to the opposite party and giving an opportunity to such party in the matter. However, an exception is carved out in cases of urgency as prescribed under the proviso.

Thus, as per the procedure prescribed by the Act, if the Tribunal is of the opinion that the application does not fall under the proviso to Section 24 of the Act, it has to necessarily hear and consider the request for grant of interim order after the notice is served on the opposite party against whom such relief is sought. Therefore, even after the OA is admitted and notice is ordered, the applicant is entitled under Section 24 of the Act for consideration of his request for grant of interim order after service of notice along with the application and documents filed in support thereof by the applicant on the opposite party.

In the light of these clear and unambiguous

statutory provisions as discussed above, we are of the considered view that if, for any reason, the Tribunal is not inclined to grant an *ad interim* order, it has to necessarily consider the requests of the applicants for grant of interim orders after service of notice on the opposite party, which necessarily includes its Counsel also appearing in the matter. As the Tribunal has not followed this procedure, these Writ Petitions are disposed of in the following terms:

“Subject to service of notices on the respondents, the Tribunal shall hear both sides and pass appropriate interim orders on the requests made by the petitioners in their respective OAs for grant of interim orders within four weeks from the date of receipt of this order.”

As a sequel to disposal of the Writ Petitions, Miscellaneous Petitions, pending if any, stand disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

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(G.Shyam Prasad, J)

Dt: 14th July, 2016

Note:

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