

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH

-
HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
HON'BLE SRI JUSTICE P. NAVEEN RAO

-
WRIT PETITION No. 24044 of 1998

Date: 12.04.2016

-
Between:

Ch. Girinadh

... Petitioner

And

The Govt., of A.P., rep., by its Secretary,
Medical, Health and Family Welfare Department,
Hyderabad & others

... Respondents

**HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
HON'BLE SRI JUSTICE P. NAVEEN RAO**

WRIT PETITION No. 24044 of 1998

ORDER: (per the Hon'ble the Acting Chief Justice Dilip B. Bhosale)

Heard Sri M.R.K. Chowdary, learned Senior Counsel, instructed by Sri K. Upender Reddy, advocate on record for the petitioner, and learned Advocate General for the State of Andhra Pradesh.

In the instant writ petition, the petitioner seeks the following prayer:

“For the reasons stated in the accompanying affidavit, the petitioner herein prays that this Hon'ble Court may be pleased to issue a writ, order or direction, declaring the initiation of proceedings by the Lokayukta and Upa Lokayukta and the consequential proceedings of C.B.C.I.D. as illegal, arbitrary, violative of the principles of natural justice and one without jurisdiction and further direct them not to interfere with the petitioner society and colleges and pass such other order or orders as deem fit and proper in the circumstances of the case.”

We are informed that as of today, no proceedings are pending before respondent No.2 – Lokayukta.

Learned Advocate General for the State of Andhra Pradesh placed before us the order, dated 10.11.2005, passed by a Division Bench of this Court in WVMP.No.2819 of 2005 and WPMP.No.29082 of 1998 in W.P.No.24044 of 1998 and submitted that in view of the said order, investigation was carried out and the

charge sheet was also filed by the police. He further submits that presently the trial is in progress before II Additional Munsif Magistrate in C.C.No.774 of 2007 and five witnesses have already been examined. It is also not in dispute that the complainant is State through Inspector of Police, CID RCIU, Vijayawada. The case registered against the petitioner is for the offences punishable under Sections 420, 465, 467, 468, 471 read with Sections 120(B) and 109 IPC and Section 20 of A.P. Education Act. The order, dated 10.11.2005, passed by this Court reads thus:

“There are some questions involved, which need to be examined. The Lokayukta has referred a matter to the police and directed them to register a case and investigate. The case of the petitioner is that he is the Director of a Society, which is not controlled by the Government and as such, he is not a public servant within the meaning of the provisions of The Andhra Pradesh Lokayukta and Upa-Lokayukta Act, 1983 (hereinafter referred to as “the Act”). On the other hand, the respondents claimed that by being the Director of a Society, which is registered under the Societies Registration Act, 1860, he becomes a public servant in accordance with Section 2(k)(v)(4) of the Act. The learned Government Pleader has also submitted that the Supreme Court has already decided such issues in various judgments. We have gone through the judgments, but in our view, the provisions of the Act, relating to the definition of ‘Public Servant’, were not directly considered by the Supreme Court in these judgments. Particularly, the words in Section 2(k)(v)(4), “which is subject to the control of the Government” has not come before the Supreme Court so far. Therefore, the matter needs a detailed inquiry. But we have observed that because of pendency of this writ petition challenging the order of Lokayukta, the investigation in the case is stalled. The police do not need anybody’s permission or order to investigate a case if a complaint is made before them and every citizen has a right to set in motion the Criminal Law and file complaints before the Police.

In this view of the matter, we think that staying the investigation cannot be continued, because, the police has its own powers to investigate the cases and they are not

dependent on the orders passed by the Courts or by the Lokayukta. If police finds there is a case, which needs investigation, they may proceed with the investigation. The interim order dated 17.09.1998 stands modified accordingly.”

In the circumstances, we are satisfied that nothing further survives in the writ petition. Hence, the writ petition is dismissed as infructuous. Disposal of the writ petition, however, shall not preclude the petitioner from taking remedy, if any, available to him against the charge sheet, if he so desires or against the order that will be passed in C.C.No.774 of 2007. While making this observation, we shall not be understood to have expressed any opinion on the right of the petitioner to take remedy that may be available to him. If any such remedy is taken, we hope and trust that it will be considered strictly on merits in accordance with law.

Miscellaneous petitions, if any, shall also stand dismissed. There shall be no order as to costs.

DILIP B.BHOSALE, ACJ

P.

NAVEEN RAO, J

Date: 12.04.2016

ES