

THE HON' BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
THE HON' BLE SRI JUSTICE M.S.K.JAISWAL

WRIT PETITION No.23399 of 2017

Dated: 13.09.2017

Between:

V. Srinivasa Rao,
s/o. Sri V.Mallikarjuna Rao,
Aged 49 years, working as Senior Assistant,
Municipal Corporation, Khammam.

.. Petitioner

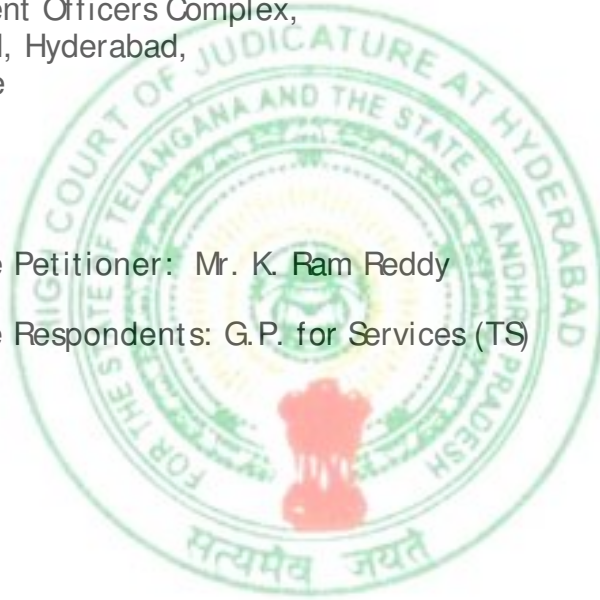
And

The Commissioner and Director of
Municipal Administration,
BRKR Government Officers Complex,
Tank Bund Road, Hyderabad,
Telangana State
and others.

.. Respondents

Counsel for the Petitioner: Mr. K. Ram Reddy

Counsel for the Respondents: G.P. for Services (TS)



This Court made the following:

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

This writ petition is filed by the applicant in O.A.No.4127 of 2014 with the grievance which eventually turned out to be illusory, that the respondents have not been implementing order dated 09.07.2014 of the Andhra Pradesh Administrative Tribunal at Hyderabad (for short, 'the Tribunal') passed in the said O.A. Taking the petitioner's word for granted, a Division Bench of this Court has passed the following order on 14.07.2017:

"Vide the present writ petition, the petitioner seeks a direction thereby directing the respondents to comply the order dated 09/07/2014 passed by the A.P. Administrative Tribunal, Hyderabad, in O.A.No.4127 of 2014, whereby the first respondent was directed to pass appropriate orders on the letter dated 18/10/2013 within a period of four weeks from the date of receipt of a copy of the aforesaid order

As stated by the counsel for the petitioner till date the order passed by the learned Tribunal has not been complied with.

Notice issued. Learned Government Pleader accepts notice on behalf of the respondents and seek adjournment to take instructions as to why the aforesaid order passed by the learned Tribunal has not been complied with.

As his request, list the matter on 30/08/2017.

We hereby make it clear that if the aforesaid order is not complied with, the respondents shall personally remain present on the next date of hearing.

Registry is directed to communicate a copy of this order to the respondents forthwith."

On behalf of the respondents, a detailed counter affidavit has been filed by the Additional Director in the office of Commissioner & Director of Municipal Administration, Telangana State, Hyderabad, wherein it is stated that in compliance with order dated 09.07.2014 in the O.A., the claim of the petitioner was considered by the Commissioner & Director of Municipal

Administration and order in ROC.No.608/ 2014-K1-2, dated 07.10.2014, was passed to the effect that for the reasons stated therein, the petitioner cannot be considered for promotion to the post of Revenue Officer and that the petitioner filed C.A.No.1372 of 2014 before the Tribunal, which, after considering order dated 07.10.2014 passed by the Commissioner & Director of Municipal Administration, closed the contempt case by order dated 14.12.2015. It is further averred that much after closing of the contempt case, the petitioner filed W.P.No.22764 of 2017 *inter alia* for a direction to the respondents to promote and appoint the petitioner as Manager/ Revenue Officer in compliance of order dated 09.07.2014 in O.A.No.4127 of 2014, without disclosing the fact of the respondents passing the order of rejection and closing of C.A.No.1372 of 2014 by the Tribunal, and that the petitioner has withdrawn the said writ petition and filed the present writ petition on the same terms on which his earlier writ petition was filed.

In support of his averments, the deponent, who filed the counter affidavit, filed relevant material along with the counter affidavit.

On perusal of the counter affidavit and the material filed along with it, we have arrived at *prima facie* view that the petitioner has indulged in grave suppression of material facts and that, therefore, we proposed to impose exemplary costs on him. The case was, therefore, adjourned to give an opportunity to the petitioner to file an affidavit to explain his conduct. Thereafter, the petitioner has filed WPMP.No.38279 of 2017 seeking permission to withdraw the writ petition by pardoning him for inadvertent mistake committed by him. In the affidavit termed as reply affidavit filed in support of the said application, he has admitted his filing CA.No.1372 of 2014 before the Tribunal and order dated 14.12.2015 of the Tribunal closing the same recording compliance of its order in the O.A.,

consequent on issuance of memo dated 07.10.2014 by the Additional Director, Municipal Administration. He has also further admitted that a copy of the said proceedings was also filed before the Tribunal, but, that the same was not communicated to him. The petitioner further averred that he had no knowledge of the proceedings of the Additional Director of Municipal Administration and due to inadvertence and pressure of work in office, he could not even contact his counsel in the Tribunal. He has also stated that as he came to know that further steps to effect promotion were being taken, he was under the bona fide impression that the order of the Tribunal is yet to be complied with and that, therefore, due to inadvertence, he filed the present writ petition.

The stand taken by the petitioner in his reply affidavit is incredulous, to say the least. The petitioner is not an illiterate. He is working as a Senior Assistant in the Municipal Corporation, Khammam. He is litigating for his promotion. It is not his pleaded case that he was not aware of filing of the contempt case. It is also not his pleaded case that he was not aware of the disposal of the contempt case. Even assuming that memo dated 07.10.2014, based on which the contempt application was closed, was not supplied to the petitioner, he cannot plead ignorance of closure of the contempt case. The petitioner has also not disputed the fact that before he filed the present writ petition, he has filed W.P.No.22764 of 2017, wherein the substantial relief claimed by him was a direction to the respondents to promote and appoint him as Manager/ Revenue Officer in compliance of order dated 09.07.2014 in O.A.No.4127 of 2014, for enforcement of which, the present writ petition is filed. He has not explained the reasons for which he has withdrawn the said writ petition, a day after he has filed the present writ petition. A perusal of order dated 14.07.2017 of the learned Single Judge, who dismissed the writ petition as

withdrawn, shows that liberty was not given to the petitioner to file a fresh writ petition.

From the above facts, we have no hesitation to conclude that the petitioner deliberately suppressed the material facts, came up with the present writ petition, mislead this Court into believing that the respondents have failed to comply with the order of the Tribunal and made it to entertain and pass order dated 14.07.2017, whereby a notice was issued to the respondents to explain as to why the order of the Tribunal has not been complied with with a further direction that in default of the respondents not complying with the order of the Tribunal by the next date of hearing, they shall personally remain present. Except pleading that by inadvertence, he could not mention the above facts, no plausible explanation has been offered by the petitioner for indulging in suppression of the material facts, which if disclosed would have resulted in dismissal of the present writ petition in *limini*. We take exception to the abhorrent conduct of the petitioner and dismiss the writ petition with exemplary costs of Rs.25,000/- payable to the Chief Justice Relief Fund. The fact of imposition of costs on the petitioner must be entered in his Service Register.

As a sequel to the dismissal of the writ petition, WPMP.Nos.28909 & 38279 of 2017 filed by the petitioner stand disposed of as infructuous.

C.V.NAGARJUNA REDDY,J

M.S.K.JAISWAL,J