

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR
AND
HON'BLE SRI JUSTICE N.BALAYOGI

WRIT PETITION No.33210 of 2012

ORDER: (Per Hon'ble Sri Justice C.Praveen Kumar)

Heard Sri C.V.Mohan Reddy, learned Senior Counsel for the petitioners and Sri P.V.Vidyasagar, learned Senior Counsel for the second respondent and also the Government Pleader for respondents 1, 3 and 4.

2) The present Writ Petition came to be filed seeking issuance of writ of mandamus to declare the common order No.D.Dis(E4)1111/2011 dated 20.09.2012 passed by the third respondent and the direction of the second respondent dt:30.04.2012 in Complaint No.463/2011 and batch, as arbitrary, illegal and without jurisdiction.

3) The averments in the affidavit filed in support of the writ petition would show that the authorities have granted/assigned the lands through DKT pattas to the petitioners after due enquiry vide DKT patta Nos.70/4/1417, 69/4/1417 dated 14.12.2007, 74/4/1417, 71/4/1417 dated 31.03.2008 and 837/4/81 dt:5.4.72 to an extent of Ac.4.48 cents, Ac.3.91 cents, Ac.3.73 cents, Ac.5.00 cents and Ac.5.36 cents respectively. Pursuant to the said assignment, the petitioners claimed to have invested huge amounts for converting the uncultivable land into cultivable land and continuously cultivating the

said land by raising, rain-fed crops like horse gram, jawar and also planted saplings of eucalyptus, neem, teak etc. While things stood thus, one M.Venkatachalapathi, an Ex-serviceman tried to interfere with the possession of the petitioners, which lead to filing of various civil suits against the said Venkatachalapathi. A criminal case also came to be registered against him. To achieve his goal, the said Venkatachalapathi, with a malafide intention, lodged a complaint before the second respondent/Lokayuktha seeking cancellation of DKT pattas granted to the petitioners. Pursuant thereto, the second respondent issued directions to the revenue authorities for cancellation of assignments granted in favour of the petitioners and for allotment of land in favour of the complainant. It is said that the said order/direction of cancellation has prompted the third respondent to pass the impugned order. Challenging the jurisdiction of the Lokayuktha in passing the said order, which made the third respondent to pass the impugned order, dated 20.09.2012 directing the Tahasildar to resume the lands to Government and carryout necessary changes in the village and Mandal accounts, as illegal and improper, the present Writ Petition is filed.

4) Sri C.V.Mohan Reddy, learned Senior Counsel would contend that since the order dated 20.09.2012 passed by the Joint Collector in directing the District Collector to issue necessary instructions to Tahasildar for cancellation of the assignments is an

outcome of the order passed by the Lokayuktha dated 30.04.2012, the same is without jurisdiction, in view of the Full Bench judgment of this Court in **Dr.R.G.Sunil Reddy v. A.P.Lokayuktha, Hyderabad and others**¹.

5) Sri P.V.Vidyasagar, learned Senior Counsel appearing for Lokayuktha and also the Government Pleader would contend that there is no illegality or impropriety in the order passed by the Joint Collector as the same came to be passed in a Revision initiated under the Board Standing Orders, much prior to the passing of the order by the Lokayuktha. Merely because, there is a reference to the order passed by the Lokayuktha in the impugned proceedings the same does not by itself mean that the order of the Joint Collector dated 20.09.2012 is pursuant to the order passed by the second respondent/Lokayuktha.

6) In order to appreciate the same, it would be useful to refer to the orders passed by both the authorities. The order passed by the Lokayuktha is dated 30.04.2012, basing on the complaints made in the year 2010 and 2011. The order consists of various parts. In para 2 of the order, the second respondent directed the District Collector to issue necessary instructions to the concerned Tahasildar/R.D.O., for cancellation of the assignments. In the last paragraph of the said order, it states that since the complainant in

¹ 2015(6) ALD 302 (FB)

C.No.1722/2010, is admittedly an Ex-serviceman, who sought for assignment of Government land, which also appears to have been identified, the authorities were directed to issue necessary instructions with a reference to the place where he is residing now.

7) Learned Senior counsel appearing for the petitioners states across the Bar that he is not aggrieved by the order of the Lokayuktha with regard to the directions issued to the authorities to provide land to the Ex-serviceman. His main grievance is with regard to the direction given to the District Collector to issue necessary instructions to the Tahasildar/R.D.O., to cancel the assignments made in favour of the petitioners. It is his plea that pursuant to the direction given by the Lokayuktha in its order dated 30.04.2012, the Joint Collector has issued the impugned proceedings dated 20.09.2012, directing the Tahasildar to resume the land. But a perusal of the order dated 20.09.2012 passed by the Joint Collector in his proceedings vide Dis.(E4)/1111/2011 dated 20.09.2012 does not anywhere indicate that the said order came to be passed pursuant to the directions of the Lokayuktha. The subject column does not anywhere indicate the order passed by the Lokayuktha. The reference column also does not anywhere show that the proceedings dated 20.09.2012 came to be issued in view of the orders passed by the Lokayuktha in the month of April, 2012. The opening words of the order itself show that suo-motu a revision was initiated under Board Standing Order 15 (18) read with G.O.Ms.No.912 dated 02.08.1985

and thereafter the authority went into the merits of the case and passed an order of resumption. In the third paragraph of the order there is a reference to the complaint filed by one Venkatachalapathy before Lokayuktha seeking cancellation of DKT pattas. Nowhere in the order there is a reference to the direction given by the Lokayuktha to the Joint Collector. On the other hand, the impugned order refers to the orders passed by the High Court in Writ Petitions dated 23.02.2011 and 25.03.2011 directing the writ petitioners therein to submit their explanation to showcase notice dated 28.02.2011 issued by the first respondent therein and then if such an explanation is submitted, the competent authorities were directed to take appropriate directions in accordance with law.

8) Therefore, the argument of the learned Senior Counsel that the order of the Joint Collector dated 20.09.2012, is an outcome of the order passed by the Lokayuktha and that there was no independent consideration of the matter, cannot be accepted. At this stage, the learned Senior counsel would contend that even if the order dated 20.09.2012 is passed without any reference to the order passed by the Lokayuktha, still the order of Lokayuktha is beyond the jurisdiction. According to him, even if he challenges the order passed by the Joint Collector before the higher authorities, the order of the second respondent dated 30.04.2012 will be staring at him and any amount of prejudice would be caused while defending his case. The Full Bench of this Court in **Dr.R.G.Sunil Reddy's case (one supra)**,

after considering the provisions of law extracted the following questions for consideration:

a. Whether A.P.Lokayuktha has jurisdiction to entertain a complaint, which does not involve an allegation, or a complaint regarding non-implementation of an order of a Magistrate in a matrimonial dispute between a wife and husband, or any other dispute inter se private individuals, and pass consequential orders?

b. Whether the A.P. Lokayukta can issue directions or pass an order directly against the persons mentioned in clauses (i) to (iv) of Section 7(1) of the Act ?

c. Whether A.P. Lokayukta can take action *suo motu* under the Act?

After considering all the provisions of law, the Full Bench of this Court held as under:-

"20. We, accordingly, answer question No.1 in the negative and hold that the Lokayukta has no jurisdiction to entertain a complaint, which neither involves an allegation nor involves any action or inaction connected with such an allegation. We also hold that inter se private disputes between the parties including matrimonial dispute does not fall within the purview of the jurisdiction of the Lokayukta under the Act and that only such acts, which are actuated by allegation against public servants and the authorities as named under Section 7 of the Act alone fall within the domain of the Lokayukta or Upa-Lokayukta, as the case may be. The discussion, as above, also answers question No.2 in the negative Question No.3, however, does not arise on the facts and circumstances of the case and would amount to adjudication on hypothetical question. Hence, the said question is left open."

9) From a perusal of the judgment of the Full Bench of this Court, it is clear that the Lokayukta has no jurisdiction to entertain a complaint, which neither involves an allegation nor involves any action or inaction connected with such an allegation. It was also held that *inter se* private disputes between the parties does not fall within the

purview of the jurisdiction of the Lokayukta and that only such acts which are actuated by allegation against public servants fall within the domain of the Lokayukta or Upa-Lokayukta, as the case may be.

10) Since the prayer in the writ petition relates to passing of the order dated 30.04.2012, as without jurisdiction, and as a direction has been issued to the District Collector for cancellation of the assignments made in favour of the petitioners pursuant to a complaint given by one Venkatachalapathy seeking assignment of land in his favour, appears to be incorrect, moreso when a remedy is provided under law. Particularly under the BSO, which was invoked by the Joint Collector while passing the order dated 20.09.2012. Hence, the order of the Lokayukta to that extent viz., issuing a direction to cancel the assignments, stands quashed. But, this shall not preclude the Lokayukta to proceed further with the other findings arrived at basing on the said report. As held earlier, the order dated 20.09.2012 passed by the Joint Collector has nothing to do with the order passed by Lokayukta.

11) Accordingly, the writ petition is disposed of directing the petitioners to avail the remedies available under law, if they are aggrieved by the order dated 20.09.2012. Having regard to the facts and circumstances of the case, *status-quo* as on today with regard to the property in dispute shall be maintained for a period of eight

weeks from today. There shall be no order as to costs. Miscellaneous Petitions, pending if any in this Writ Petition shall stand closed.

C. PRAVEEN KUMAR, J

N.BALAYOGI, J

Date: 22.12.2017
GM

