

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

* HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND

* HON'BLE SRI JUSTICE M. GANGA RAO

+ W.P.NOs.34363 & 35536 of 2017

% Date: 07-11-2017

W.P.Nos.34363 & 35536/ 2017

Between:

Kum. G. Govinda Lakshmi, D/o. Late G.N. Acharya,
IV Additional Junior Civil Judge, (Juvenile Court)
Warangal District, Telangana State.

.... Petitioner

And

1. The High Court of Judicature at Hyderabad (for the State of Telangana and the State of Andhra Pradesh), Rep. by the Registrar (Vigilance), Hyderabad.
2. The Registrar (IT-Cum-Central Project Coordinator & FAC Registrar (Inquiries), High Court of Judicature at Hyderabad (for the State of Telangana and the State of Andhra Pradesh), Hyderabad.

... Respondents

! Counsel for the Petitioner : Mr. M. Srinivasa Rao

^ Counsel for Respondents : Mr. Swaroop Oorilla

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? Cases referred

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE M. GANGA RAO

WRIT PETITION Nos.34363 & 35536 of 2017

COMMON ORDER: (Per VRS,J)

Aggrieved by the rejection of her request to engage a counsel to defend herself in the departmental enquiry, the petitioner, who is serving as the IV Additional Junior Civil Judge, has come up with the above writ petitions.

2. Heard Mr. M. Surender Rao, learned Senior Counsel appearing for the petitioner and Mr. Swaroop Oorilla, learned Standing Counsel appearing for the respondents in both the writ petitions.

3. The question as to whether a Government servant has a legal right to engage a counsel to defend him/her in the departmental enquiry is no longer *res integra*. Very recently in W.P.No.27828 of 2017, a bench of this Court, to which one of us was a party (VRS,J), analyzed the scope and ambit of Rule 20 of the Andhra Pradesh Civil Services (Classification, Conduct and Appeal) Rules, 1991. The relevant portion of the said decision dated 14.09.2017 is extracted as follows:

The disciplinary proceedings as against the petitioner herein, were initiated admittedly under Rule 20 of the Andhra Pradesh Civil Services (Classification, Conduct and Appeal) Rules, 1991. Clause (c) of sub-rule (5) of Rule 20 reads as follows:

“Where the disciplinary authority itself inquires into any articles of charge or appoints a serving or retired Government servant as Inquiring Authority for holding the inquiry into such charge, he shall also by an order appoint serving or retired Government servant or Legal practitioner or a legally trained Government servant as Presenting Officer to present the case in support of the articles of charge;

Provided that no Government servant dealing in his official capacity with the case of inquiry relating to the person charged or any officer

to whom an appeal may be preferred shall be permitted by the inquiring authority to appear on behalf of the person charged before the inquiring authority;

Provided further that the Government servant may take the assistance of any other Government servant posted at any other station, if the inquiring authority having regard to the circumstances of the case and for reasons to be recorded in writing, so permits."

A careful look at the above rule would show that a Government Servant is entitled to take the assistance of any other Government Servant to present the case on his behalf, but he cannot engage a retired Government servant or a legal practitioner for the purpose, unless the presenting officer appointed by the Disciplinary Authority is one such, or the disciplinary authority, having regard to the circumstances of the case so permits.

In the case on hand, the petitioner, who is a delinquent, the Presenting Officer as well as the Enquiry Officer are all legally qualified. All of them are Judicial Officers. Since there are no separate Rules governing the conduct of disciplinary proceedings for judicial officers, the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 have been made applicable for judicial officers also.

Primarily, Rule 20 (5) (c) of the Rules, is intended for the benefit of a Government servant, who is not a legally qualified person. In the case of any other Government servant, who is not legally qualified, it is possible that the presenting officer or the Enquiry Officer may be legally qualified. Therefore, the aforesaid rule is drafted in such a manner that a Government servant ignorant of the law, cannot be put down by a presenting officer well versed in law. Such a contingency would not normally apply in the case of judicial officers.

When judicial officers who are legally qualified, face disciplinary proceedings, it cannot be expected that the presenting officer can be a person, who is not legally qualified or the Enquiry Officer can be a person, who is not legally qualified. Therefore, Rule 20 (5) (c) of the Rules, cannot be applied *ipso facto* to the case of judicial officers. The judicial officers are normally expected to be well versed in law and to be able to defend themselves, as they are expected to advance the cause of justice on the Bench.

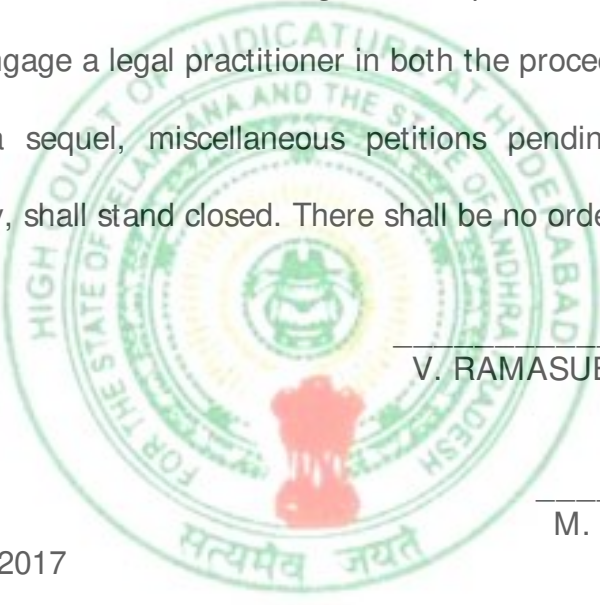
Therefore, legally speaking, no judicial officer can place reliance upon Rule 20 (5) (c) of the Rules to seek as a matter of right, the entitlement to engage a legal practitioner."

4. Having said that, we find from annexure-3 to the two charge memos issued against the petitioner that some judicial officers serving in different Courts as on date and who are occupying senior positions than

her, are cited as witnesses. Therefore, the contention of the learned Senior Counsel for the petitioner is that the petitioner may have her inhibitions in cross-examining some of these persons under whom she had been working.

5. Even in W.P.No.27828 of 2017, this Court, after clarifying the legal position, permitted the petitioner therein to engage the services of a legal practitioner, taking into account the facts and circumstances. The facts and circumstances in this case also justify the grant of such a benefit only as a matter of concession and not as a matter of right. Therefore, the writ petitions are allowed directing the respondents to permit the petitioner to engage a legal practitioner in both the proceedings.

6. As a sequel, miscellaneous petitions pending in these writ petitions, if any, shall stand closed. There shall be no order as to costs.



V. RAMASUBRAMANIAN, J.

M. GANGA RAO, J.

7th November, 2017
Js.

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE M. GANGA RAO

WRIT PETITION Nos.34363 & 35536 of 2017



7th November, 2017

Js.