

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

Writ Petition No.39105 of 2017

ORDER: {Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan}

The petitioner has invoked the jurisdiction of this Court, under Article 226 of the Constitution of India, to declare the order passed by the Andhra Pradesh State Human Rights Commission, Hyderabad in HRC.No.6309 of 2015 dated 02.08.2016, awarding a sum of Rs.10,000/- to the complainant-7th respondent as compensation to be paid by the State of Telangana and to be recovered from the petitioner; the consequential disciplinary proceedings initiated against the petitioner by the Superintendent of Police, Karimnagar District; the order passed by the Deputy Inspector General of Police dated 01.06.2017; and the order of the Commissioner of Police dated 09.06.2017 holding the charges levelled against the petitioner as proved and imposing the punishment of postponement of increment for two years on him, as arbitrary and illegal.

We are concerned in this writ petition only with the order passed by the Andhra Pradesh State Human Rights Commission on 02.08.2016. The petitioner had earlier filed W.P.No.33910 of 2016 questioning the action of the respondents in placing him under suspension. In the said writ petition, the petitioner referred to the proceedings of the Andhra Pradesh State Human Rights Commission in HRC.No.6309 of 2015 dated 02.08.2016, and to the fact that he was asked to pay compensation of Rs.10,000/- to the complainant. The consequential orders dated 06.09.2016 and 29.08.2016, placing the petitioner under suspension, were under challenge in W.P. No.33910 of 2016 which was disposed of by the Learned Single Judge by his order dated 30.09.2016. The Learned Single Judge had held that the Andhra Pradesh State Human Rights Commission had taken

a serious view of the highhanded behaviour of the petitioner towards the victim, and had awarded compensation of Rs.10,000/-; since the act of the petitioner brought disrepute, and tarnished the image of the police, he was placed under suspension; the matter had to be enquired into by the competent authority; and, at that stage, he was not inclined to interfere with the order of suspension passed against the petitioner. The Learned Single Judge, however, directed the Superintendent of Police, Karimnagar to complete the enquiry against the petitioner, after affording an opportunity of hearing to him, within a period of three months from the date of receipt of a copy of the order.

While the order of suspension was subjected to challenge in W.P.No.33910 of 2016, the petitioner chose not to challenge the order of the Andhra Pradesh State Human Rights Commission in the said writ petition, though he was aware of the said order which has, in fact, been referred to in the order passed by the Learned Single Judge in W.P.No.33910 of 2016 dated 30.09.2016.

Explanation IV to Section 11 of the Civil Procedure Code stipulates that any matter, which might and ought to have been made ground of defence or attack in such former Suit, shall be deemed to have been a matter directly and substantially in issue in such Suit. As the petitioner ought to have questioned the order of the Andhra Pradesh State Human Rights Commission when he questioned the order of suspension in W.P.No.33910 of 2016, and in as much as the order passed in W.P. No.33910 of 2016 on 30.09.2016 has attained finality, we see no reason to permit the petitioner, in the light of the Explanation IV to Section 11 C.P.C, to now question the order passed by the Andhra Pradesh State Human Rights Commission.

To the extent the petitioner has subjected the order of the Andhra Pradesh State Human Rights Commission to challenge, the writ petition is liable to be dismissed. In so far as the challenge to the

order passed by the authorities concerned, subsequent to the order of the Learned Single Judge in W.P.No.33910 of 2016 dated 30.09.2016, we grant liberty to the petitioner to file a writ petition afresh questioning the said orders.

Subject to the aforesaid observations, the Writ Petition fails and is, accordingly, dismissed. Miscellaneous petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

22nd November, 2017
JSU

(GUDISEVA SHYAM PRASAD, J)



**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
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Date: 22.11.2017

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