

HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

AND

HON'BLE SRI JUSTICE N.BALAYOGI

WRIT PETITION No. 37963 of 2017

ORDER:

1) The present Writ Petition came to be filed under Article 226 of the Constitution of India seeking issuance of writ of mandamus to declare the order dated 24.07.2017 passed by the 1st respondent herein in Complaint No.2038/2017/B2, as illegal, improper and without jurisdiction.

2) The facts in issue are as under:-

The petitioner, who is an office-maid, filed an application under Section 15 of the Payment of Wages Act, 1936 before the 2nd respondent, claiming payment of wages. The application was filed claiming Rs.2,60,000/- along with compensation, to an extent of 10 times the said amount. The application came to be filed in the month of August, 2015. The averments in the affidavit show that the second respondent colluded with the employee, took bribe from the employee and passed an order which is under appeal in C.M.A.No.94 of 2017 before the District Court. It is stated that the said final order suffered from patent illegality. It is said that though an appeal is filed before the District Court, but the second respondent failed to comply the mandatory requirement of disposing of the application

No.PW 6/2015 within the statutory period of 90 days as required under law. It is said that the said PW application came to be disposed 1 $\frac{1}{2}$ year after filing of the same and that too pursuant to the orders passed by the High Court in W.P.No.39992 of 2016. Hence, a complaint came to be filed seeking action against the second respondent, which was rejected by the first respondent, giving a direction to the complainant to approach competent forum for redressal of his grievance. Challenging the same, the present Writ Petition came to be filed.

3) The main ground urged by the learned counsel for the petitioner is that since the allegations are made against the public servant, for violating the statutory requirement of Section 15 of the Payment of Wages Act, the Lokayuktha gets jurisdiction to deal with the same. It is further pleaded that lack of integrity, in his capacity as a public servant, is within the jurisdiction of Lokayuktha. Hence, pleads that the order passed by the first respondent is illegal, improper and incorrect.

4) It is to be noted that under Section 10(4) of the A.P. Lokayuktha Act, 1983, the first respondent may in his discretion, refuse to investigate or discontinue the investigation of any complaint involving any allegation if in his opinion:-

- (a) the complaint is frivolous or vexatious, or is not made in good faith; or
- (b) there are no sufficient grounds for institution or, as the case may be, in continuing the investigation;

(c) other remedies are available to the complainant and in the circumstances of the case it would be more proper for the complainant to avail such remedies.

5) Therefore, the argument of the learned counsel for the petitioner that the Lokayuktha has no jurisdiction to return the complaint directing the petitioner to approach the appropriate forum, has no legs to stand.

6) The main allegation against the second respondent appears to be that he took more than the statutory period as contemplated under law in deciding the case, and that the said order came to be passed in collusion with the employee.

7) As seen from the record, the relief, which is sought for by the complainant in paras 6 and 7 of complaint, is as follows :-

"6. Therefore, all these facts prove that both the offenders No.1 and 2 (who belong to upper castes Reddy and Velma) conspired with common intention and Offender No.1 as a public servant took bribe, disobeyed law with intent to cause injury to the Complainant's rights. Offender No.1 as a public servant disobeyed direction of law with intent to save offender No.2 from punishment or property from forfeiture. Offender No.1 as a public servant framed incorrect record or writing with intent to save offender No.2 from punishment or property from forfeiture. Offender No.1 as a public servant in a judicial proceeding corruptly passed orders contrary to law in favour of Offender No.2 and violated my statutory and constitutional rights. Offender No.2 gratified Offender No.1 to cause injustice to my family thus attracting the provisions of The Prevention of Corruption Act, 1988 supra. Both the offenders also violated the provisions of the SC and ST (Prevention of Atrocities) Act, 1989 supra.

7. If all the bank accounts of both the offenders are checked from 26.08.2015 to till date, truth shall be discovered pertaining to gratification and financial dealings between both the offenders."

8) It is urged that if all the bank accounts of both the offenders viz., K.Ravinder Reddy & M/s. Satya Bala Engineering Services rep.by Mrs. Satgya Bala, are checked from 26.08.2015 to till date, truth shall be discovered pertaining to gratification and financial dealings between both the offenders.

9) As seen from the averments in para 6 and 7 of the complaint, the complainant wants verification of the bank accounts of both the offenders from 26.08.2015 till date so as to discover the truth and financial dealings between the two offenders. The verification of the Bank accounts, so as to find out the truth, is definitely not within the purview of the Lokayuktha. 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?

10) 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."

11) 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 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.

12) Therefore, the finding of the Lokayuktha that the request made would not come within the jurisdiction of the said institution cannot be found fault with.

13) Further, it is to be noted that against the order passed by the second respondent, the complainant has preferred an appeal vide C.M.A.No.94 of 2017 before the District Court, which is pending consideration. If the said order is illegal and if it is in violation of any statutory provision of law, the petitioner can take advantage of the same in the appeal, which is pending consideration before the District

Court. Viewed from any angle, we see no merits in the Writ Petition and the same is liable to be dismissed.

14) Accordingly, the Writ Petition is dismissed. No costs. Miscellaneous Petitions pending if any in the Writ Petition shall stand closed.

JUSTICE C.PRAVEEN KUMAR

JUSTICE N.BALAYOGI

Dt:20.12.2017
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