

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION Nos.28758, 28760, 29527 AND 29530 OF 2016

COMMON ORDER
(per Hon'ble Sri Justice Sanjay Kumar)

O.A.No.6056 of 2015 on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad (*hereinafter*, 'the Tribunal') was filed by one Sri Y.Adinarayana Murthy, Prohibition and Excise Superintendent, assailing G.O.Rt.No.934, Revenue (Excise-1) Department, dated 03.10.2015, whereby he was transferred from Markapuram, Prakasam District, on administrative grounds with immediate effect and directed to report before the Government of Andhra Pradesh for further posting orders. Thereafter, claiming that though he submitted his joining report to the Government of Andhra Pradesh, as per the transfer order, as early as on 23.11.2015 but was not issued any posting orders, he filed O.A.No.276 of 2016 before the Tribunal seeking a direction to forthwith issue him posting orders and to pay him salary from October, 2015 onwards.

By common order dated 16.02.2016, the Tribunal dismissed O.A.No.6056 of 2015 and disposed of O.A.No.276 of 2016 directing the Government of Andhra Pradesh to take a decision as to whether any steps were to be taken against the applicant for misconduct, and if not, to issue him posting orders within a time frame.

The applicant thereupon filed Rev.MA No.233 of 2016 in O.A.No.6056 of 2015 and Rev.MA No.231 of 2016 in O.A.No.276 of 2016 on 18.02.2016 seeking review of the common order dated 16.02.2016 passed in both the OAs.

Arguments were heard by the Tribunal in both the review petitions on 03.03.2016 and orders were reserved therein.

Aggrieved by the failure of the Tribunal to dispose of his review petitions, in which orders were reserved on 03.03.2016, the applicant filed W.P.Nos.19642 and 19643 of 2016 before this Court, challenging the common order dated 16.02.2016 passed in the two OAs filed by him.

An interim order was passed on 14.07.2016 by this Court in W.P.No.19642 of 2016 directing the authorities to forthwith give the petitioner-applicant appropriate posting of their choice; release his undisputed salary within one month; and to continue to pay his future salary pending the disposal of the writ petition.

G.O.Rt.No.752, Revenue Department, dated 16.07.2016 was thereupon issued by the Government posting the petitioner-applicant as the Prohibition and Excise Superintendent at Nandyal, Kurnool District, with immediate effect. He joined the post on 21.07.2016. Due to expiry of his father on 31.07.2016, he remained on leave up to 11.08.2016 and resumed duty on 12.08.2016. He was thereafter instructed by the authorities to supervise the Krishna Pushkaram works in Srisailam area. These details have been culled out from the affidavits filed in support of these writ petitions. No counter-affidavits were filed by the respondents rebutting the same and they are accordingly taken to be factually correct.

In the meanwhile, the Tribunal *suo motu* initiated criminal contempt proceedings against Sri Y.Adinarayana Murthy, the applicant in O.A.Nos.6056 of 2015 and 276 of 2016, and also his counsel, Sri P.V.Krishnaiah, Advocate, in relation to the averments made in Para 4 of the review applications filed in both the OAs. The Tribunal passed the following order on 06.06.2016 in Contempt Case (Criminal) No.1 of 2016. This order was signed by the Chairman of the Tribunal and Sri K.Patna Kishore, the Administrative Member, and reads as under:

‘In the Andhra Pradesh Administrative Tribunal at
Hyderabad

Contempt Case (Criminal) No.1 of 2016

1. Y.Adinarayana Murthy,
S/o Chinna Kondala Rao, Aged about 52 years,
Prohibition & Excise Superintendent,
Flat No.103, Srinivasa Nilayam,
Rajendra Nagar Lane-2, Guntur,
Andhra Pradesh.
2. P.V.Krishnaiah, S/o Not Known,
Aged about: not known, Advocate,
Hyderabad.

Suo motu

Allegations in Para 4 of the Review Miscellaneous Petition in Review M.A.No.231/2016 in O.A.No.276/2016 and arguments based thereon, *prima facie* disclose criminal contempt as defined under Section 2(c) of the Contempt of Courts Act, 1971. Therefore, this case is taken cognizance against the applicant therein (first accused) and the applicant's counsel (second accused) under Section 12 of the Contempt of Courts Act, 1971.

Issue notices to Accused Nos.1 and 2 accordingly for personal appearance on 20.06.2016 in Form No.II of the Andhra Pradesh Administrative Tribunal (Contempt of Courts) Rules, 1992.'

A similar order was also passed in Contempt Case (Criminal) No.2 of 2016.

Notice dated 06.06.2016 was accordingly issued in Contempt Case (Criminal) No.1 of 2016 and it reads as under:

‘Notice to a person charged with Criminal
Contempt of Court

In the Andhra Pradesh Administrative Tribunal at
Hyderabad

Contempt Case (Criminal) No.1 of 2016

1. Y.Adinarayana Murthy,
S/o Chinna Kondala Rao, Aged about 52 years,
Prohibition & Excise Superintendent,
Flat No.103, Srinivasa Nilayam,
Rajendra Nagar Lane-2, Guntur,
Andhra Pradesh.
2. P.V.Krishnaiah, S/o Not Known,
Aged about: not known, Advocate,
Hyderabad.

Whereas your attendance is necessary to answer a charge of Criminal Contempt of Court by way of publication of words in writing in Review M.A.No.231/2016 in O.A.No.276/2016, tending to scandalize the Hon'ble Chairman of this Tribunal by way of casting aspersions in delivery of Common Order dated 16.2.2016 in O.A.No.276/2016 (*vide* Para 4 of the above Review Petition, copy of which is enclosed herewith).

You, Sri Y.Adinarayana Murthy and Sri P.V.Krishnaiah, are hereby required to appear in person before this Tribunal at Hyderabad on the 20th day of June, 2016 at 10.30 A.M., and show-cause why you shall not be punished under the Contempt of Courts Act, 1971.

You shall attend this Tribunal at Hyderabad in person on the 20th day of June, 2016 at 10.30 A.M., and shall continue to attend the Tribunal on all days thereafter to which the case against you stands adjourned and until final orders are passed on the charge against you.

Herein fail not.

Dated this 6th day of June, 2016.

Encl:

Relevant portion of Para 4 of the Review Petition No.231/2016 in O.A.No.276/2016.'

A notice was also issued in Contempt Case (Criminal) No.2 of 2016, in relation to Para 4 in Rev.MA No.233 of 2016 in O.A.No.6056 of 2015.

A portion of Para 4 of the affidavits filed in support of the Review Applications in both cases was extracted and appended to these Notices.

The extract reads as under:

'Para 4

The Applicant respectfully submits that it is also pertinent to mention that during the arguments in the aforesaid two cases, one of the Hon'ble Chairmen who presided the Divisional Bench asked the Applicant's Counsel what is the name of the Director, Enforcement and when the Applicant's Counsel arguing that at the instance of the Director, Enforcement the entire issue took place, even though the Applicant's Counsel not inclined to disclose the name of the officer, obviously the said officer is known to the Hon'ble Chairman in as much as the Director is not only an IPS officer but also belong to Chittore district and therefore such officer might have known to the Hon'ble Chairman and that will give impact in disposing the OA. But as the Hon'ble Chairman insisted the Applicant's Counsel to disclose the name of the Director, the Applicant disclosed the name and ultimately not only the OA No.6056 of 2015 dismissed by the Hon'ble Tribunal without considering various averments made in the OA..'

On 20.06.2016, when Contempt Case (Criminal) No.1 of 2016 was called before the Bench of the Chairman and Sri K.Ratna Kishore, Member (Admn.), the following order was passed by the Tribunal:

'Accused Nos.1 and 2 are called. Absent. Notices sent to them are not returned served through registered post.

2. A2 is present in person as advocate in Court and he is sitting with all robes. In spite of calling his name, he did not respond. Therefore, the office is directed to serve notices in these two contempt cases to the 2nd accused who is present as advocate in Court. When the attender attempted to serve the papers in these two contempt cases on the 2nd accused, he wanted a written order to that effect. The 2nd accused refused to receive the notices. Therefore, the 2nd accused, who is available in Court, is taken into custody and is remanded to judicial custody for fourteen days.'

Thereupon, a remand warrant was issued by the Deputy Registrar (Admn.) of the Tribunal authorizing and requesting the Superintendent, Chanchalguda Jail, to detain Sri P.V.Krishnaiah, Advocate, for 14 days and produce him before the Tribunal on 04.07.2016 at 10.30 AM.

A similar order was passed in Contempt Case (Criminal) No.2 of 2016.

W.P.No.19643 of 2016 was then filed by Sri Y.Adinarayana Murthy, the applicant in the OAs, before this Court seeking stay of all further proceedings in Contempt Case (Criminal) No.2 of 2016 in Rev.MA No.233 of 2016 in O.A.No.6056 of 2015, including the order dated 20.06.2016 passed therein. By order dated 20.06.2016 passed in WPMP No.24377 of 2016 in W.P.No.19643 of 2016, another Division Bench of this Court suspended the order passed by the Tribunal directing arrest and judicial custody of Sri P.V.Krishnaiah, Advocate, pending further orders.

On 04.07.2016, a Bench of the Tribunal comprising the Chairman and Sri K.Ratna Kishore, Member (Admn.) took note of the absence of the Accused Nos.1 and 2 in the contempt case; directed issuance of fresh notice to Accused No.1 by Registered Post with Acknowledgment Due to the correct address; and posted the matter on 01.08.2016.

Thereafter, on 01.08.2016, a notice was issued by the Bench of the Tribunal, comprising the Chairman and Sri K.Ratna Kishore, Member (Admn.), in Contempt Case (Criminal) No.1 of 2016 calling upon Sri Y.Adinarayana Murthy, the applicant in the OAs, and his counsel, Sri P.V.Krishnaiah, Advocate, to attend before the Tribunal in person on 01.09.2016 at 10.30 AM. This notice reads as under:

‘Notice to a person charged with Criminal
Contempt of Court

In the Andhra Pradesh Administrative Tribunal at
Hyderabad

Contempt Case (Criminal) No.1 of 2016

Suo motu

And

1. Y.Adinarayana Murthy,
S/o Chinna Kondala Rao, Aged about 52 years,
Prohibition & Excise Superintendent,
Flat No.103, Srinivasa Nilayam,
Rajendra Nagar Lane-2, Guntur,
Andhra Pradesh. ... Accused No.1
2. P.V.Krishnaiah,
Advocate,
Hyderabad. ... Accused No.2

To

Y.Adinarayana Murthy,
S/o Chinna Kondala Rao, Aged about 52 years,
Prohibition & Excise Superintendent,
Flat No.103, Srinivasa Nilayam, Rajendra Nagar Lane-2,
Guntur,
Andhra Pradesh.

(*Though the Commissioner of Prohibition and Excise,
State of Andhra Pradesh*)

Whereas your attendance is necessary to answer a charge of Criminal Contempt of Court by way of publication of words in writing in Review M.A.No.231/2016 in O.A.No.276/2016, tending to scandalize the Hon'ble Chairman of this Tribunal by way of casting aspersions in delivery of Common Order dated 16.2.2016 in O.A.No.276/2016 (vide Para 4 of the above Review Petition, copy of which is enclosed herewith)

Whereas this Hon'ble tribunal ordered Notice, on 06.06.2016 to Accused No.1 and 2 for their Personal Appearance on 20.06.2016.

Accordingly, a notice was sent to you by Registered post with Acknowledgment due and the same was returned by the postal authorities with an endorsement 'unclaimed' and the Hon'ble Tribunal directed issuance of fresh notice on 04.07.2016, to you by Registered post to your correct address. Accordingly, a fresh notice was sent to you to your latest available address. Even the said notice was returned by the postal Authorities with an endorsement of 'Left without instructions'.

When the above said case was listed before the Hon'ble Tribunal for personal Appearance on 01.08.2016, the Hon'ble Tribunal directed to issue fresh notice to you through the Commissioner of Prohibition and Excise, State of Andhra Pradesh.

Therefore, you, i.e., Sri Y. Adinarayana Murthy (A1), are hereby required to appear in person before this Tribunal at Hyderabad on the 1st day of September 2016 at 10.30 A.M., and show cause why you shall not be punished under the Contempt of Courts Act, 1971.

You shall attend this Tribunal at Hyderabad in person on the 1st day of September, 2016 at 10.30 A.M., and shall continue to attend the Tribunal on all days thereafter to which the case against you stands adjourned and until final orders are passed on the charge against you.

Herein fail not.

Dated this the 1st day of August, 2016.

Sd/-

Deputy Registrar (Admn.)

Encl: Relevant portion of 4 of the Review Petition No.231/2016 in OA.No.276/2016.'

A similar notice was issued in Contempt Case (Criminal) No.2 of 2016. On 01.08.2016, the Tribunal passed the following orders:

'CC(CRL) 1 of 2016:

A1 is absent. Issue fresh notice to A.1 through the Commissioner of Prohibition and Excise, State of Andhra Pradesh. A2 is absent today also on the second occasion without any leave. In case he is absent on the next date of adjournment, proceedings will be taken against him as per law.

Post on 01.9.2016'

'CC(CRL) 2 of 2016:

A1 is absent. Issue fresh notice to A.1 through the Commissioner of Prohibition and Excise, State of Andhra Pradesh. A2 is absent today also on the second occasion without any leave. In case he is absent on the next date of adjournment, proceedings will be taken against him as per law.

Post on 01.9.2016'

At this stage, W.P.Nos.28758 and 28760 of 2016 were filed by Sri Y.Adinarayana Murthy on 24.08.2016, the applicant in both the OAs, before this Court. In W.P.No.28758 of 2016, his prayer reads as under:

‘For the reasons stated in the accompanying Affidavit, it is therefore prayed that the Hon’ble High Court may be pleased to grant appropriate relief more in the nature of Writ of Certiorari under Article 226 and 227 of the Constitution of India calling for the records relating to notice dt. 6th June 2016 in contempt case (criminal) No.1/2016 in Review MA No.231/2016 in OA No.276/2016 issued by the 1st and 2nd Respondents and all other further proceedings including notice dt.1st August 2016 in contempt case (criminal) No.1/2016 in Review MA No.231/2016 in OA No.276/2016 issued by the 1st and 2nd Respondents and pass such other order or orders as this Hon’ble High Court deems fit and proper in the circumstances of the case.’

The same prayer was made by him in W.P.No.28760 of 2016 in relation to Contempt Case (Criminal) No.2 of 2016 in Rev.MA No.233 of 2016 in OA No.6056 of 2015.

W.P.Nos.29527 and 29530 of 2016 were filed by Sri P.V.Krishnaiah, Advocate, on 31.08.2016. In W.P.No.29527 of 2016, his prayer was as under:

‘For the reasons disclosed in the Accompanying affidavit, it is therefore prayed that this Hon’ble High Court may be pleased to grant appropriate relief more in the nature of Writ of Certiorari under Article 226/227 of the Constitution of India calling for all the records relating to the orders passed by the Honble Tribunal dt.06.06.2016 passed in Contempt Case (Criminal) No.1/2016 in Review MA No.231/2016 in O.A.No.276/2016 and all other consequential orders passed by the Hon’ble Tribunal and proceedings issued by the Hon’ble Tribunal including the orders dt. 20th June 2016 and 01.08.2016 and quash and set aside the same as being arbitrary, illegal, malafide, void and without jurisdiction apart from violating Article 14 19(1)(g) and 21 of the Constitution of India and contrary to Contempt of Courts Act, 1971, and pass such other Order or Orders as this Hon’ble High Court deems fit and proper in the circumstances of the case.’

The same prayer was replicated by him in W.P.No.29530 of 2016 in relation to Contempt Case (Criminal) No.2 of 2016 in Rev.MP No.233 of 2016 in OA No.6056 of 2015.

By order dated 26.08.2016 passed in W.P.Nos.28758 and 28760 of 2016, this Court directed the Registry to call for the original files relating to Contempt Case (Criminal) Nos.1 and 2 of 2016 before the Tribunal. On 30.08.2016, Sri T.Ramulu, learned counsel, took notice for the Tribunal, arrayed as the first respondent in both the writ petitions. On 31.08.2016, while ordering notice before admission in both cases, this Court passed interim orders. The order in WPMP No.35599 of 2016 in W.P.No.28758 of 2016 is reproduced hereunder. It may be noted that the order in W.P.No.28760 of 2016 is identical, except for the contempt case number:

‘From the original record placed before us, we find that the Bench of the Andhra Pradesh Administrative Tribunal, Hyderabad, passed order dated 06.06.2016 in *suo motu* Contempt Case (Criminal) No.1 of 2016 and directed issuance of notices to both the accused therein. This order reads as under:

“Allegations in Para 4 of the Review Miscellaneous Petition in Review M.A.No.231 of 2016 in O.A.No.276 of 2016 and arguments based thereon, *prima facie* disclose criminal contempt as defined under Section 2(c) of the Contempt of Courts Act, 1971. Therefore, this case is taken cognizance against the applicant therein (first accused) and the applicant’s counsel (second accused) under Section 12 of the Contempt of Courts Act, 1971.

Issue notices to Accused Nos.1 and 2 accordingly for personal appearance on 20.06.2016 in Form No.II of the Andhra Pradesh Administrative Tribunal (Contempt of Courts) Rules, 1992.”

It is inexplicable as to how the *suo motu* contempt case was numbered even before the Bench took cognizance thereof. Section 15 of the Contempt of Courts Act, 1971 (for brevity

'the Act of 1971') authorizes *suo motu* initiation of criminal contempt proceedings but such initiation must be on the judicial side and cannot be by way of any administrative action on the part of the Tribunal. Unless the Bench passed a judicial order initiating the *suo motu* proceedings in the first instance, the question of the contempt case being numbered would not arise.

Sri T. Ramulu, learned Standing Counsel for the Tribunal, fairly concedes that no separate order was passed on the judicial side initiating *suo motu* contempt proceedings under Section 15 of the Act of 1971. He also concedes that the matter was not even listed before the Tribunal on 06.06.2016, whereby a judicial order could have been passed by the Bench.

We therefore find that initiation of the contempt proceedings by the Tribunal was not in accordance with the prescribed procedure and is unsustainable in law.

Though Sri T. Ramulu, learned Standing Counsel, would place reliance on T. Sudhakar Prasad v. Government of Andhra Pradesh ((2001) 1 SCC 516) in support of his contention that this Court would have no jurisdiction under Article 226 of the Constitution over the contempt proceedings initiated by the Tribunal, we find that the Supreme Court observed in the above decision that while holding proceedings under Section 17 of the Administrative Tribunals Act, 1985, the Tribunal remains a Tribunal and would be amenable to the jurisdiction of the High Court under Articles 226 and 227 of the Constitution subject to the well-established rules of self-restraint governing the discretion of the High Court to interfere with the pending proceedings before the Tribunal.

In the light of the afore-stated settled legal position and our view that initiation of criminal contempt proceedings in this case was not sourced in law or the prescribed procedure, we are constrained to stay further proceedings in *suo motu* Contempt Case (Criminal) No.1 of 2016, pending further orders.'

Similar interim orders were also passed in W.P.Nos.29527 and 29530 of 2016 on 31.08.2016.

Surprisingly, despite the above interim orders of stay, the Tribunal called the contempt cases on the Bench on 01.09.2016, 03.10.2016, 18.11.2016, 30.12.2016, 29.02.2017, 03.04.2017, 15.06.2017, 01.08.2017, 03.10.2017, 04.12.2017 and 28.02.2018 and on each and every date, it noted that Accused 1 and 2 were absent without stating the fact that the interim orders in these writ petitions were still in operation.

Though Sri T.Ramulu, learned counsel, took adjournments for the purpose of filing counter-affidavits in these cases, no steps were taken in that regard. On 16.04.2018, when the matters were taken up for hearing, Sri T.Ramulu, learned counsel, stated that final orders may be passed in the cases as he had nothing more to state.

Earlier, Sri T.Ramulu, learned counsel, placed reliance on T.SUDHAKAR PRASAD V/ s. GOVERNMENT OF ANDHRA PRADESH¹, wherein the Supreme Court dealt with the question as to whether Tribunals set up under the provisions of the Administrative Tribunals Act, 1985 (*for brevity*, 'the Act of 1985'), had power to punish for contempt and whether, after the decision of the Supreme Court in L.CHANDRA KUMAR V/ s. UNION OF INDIA², Section 17 of the Act of 1985 was rendered unconstitutional or otiose. The Supreme Court, having considered L.CHANDRA KUMAR² in *extenso*, observed that the power of the High Court to punish for contempt of itself under Article 215 of the Constitution remained intact but the jurisdictional power and authority to hear and decide matters covered by Section 14(1) of the Act of 1985, having been conferred on the Tribunal, the jurisdiction of the High Court to that extent had been taken away and hence, the same jurisdiction which vested in the High Court to punish for contempt of itself in matters

¹ (2001) 1 SCC 516

² (1997) 3 SCC 261

now falling within the jurisdiction of the Tribunal has now been conferred on the Tribunals under Section 17 of the Act of 1985 and that the jurisdiction is the same as vesting in the High Courts under Article 215 of the Constitution read with the provisions of the Contempt of Courts Act, 1971 (*for brevity*, 'the Act of 1971'). The Supreme Court further held that while conducting proceedings under Section 17 of the Act of 1985, the Tribunal remains a Tribunal and it would be amenable to the jurisdiction of the High Court under Articles 226 and 227 of the Constitution, subject to the well-established rules of self-restraint governing the discretion of the High Court to interfere with pending proceedings and upset the interim or interlocutory orders of the Tribunal. The Supreme Court also made it clear that any order or decision of the Tribunal punishing for contempt would be appealable only to the Supreme Court within sixty days from the date of the order, in view of the specific provisions in Section 19 of the Act of 1971 read with Section 17 of the Act of 1985.

It was in the light of these observations that this Court passed the interim orders dated 31.08.2016 in these writ petitions, as the contempt proceedings before the Tribunal had not culminated in orders of punishment against either of the writ petitioners, which would have been appealable only before the Supreme Court.

Be it noted, Section 17 of the Act of 1985 reads as under:

'17. Power to punish for contempt.—A Tribunal shall have, and exercise, the same jurisdiction, powers and authority in respect of contempt of itself as a High Court has and may exercise and, for this purpose, the provisions of the Contempt of Courts Act, 1971 (70 of 1971) shall have effect subject to the modifications that—

(a) the references therein to a High Court shall be construed as including a reference to such Tribunal;

(b) the references to the Advocate-General in section 15 of the said Act shall be construed,—

(i) in relation to the Central Administrative Tribunal, as a reference to the Attorney-General or the Solicitor-General or the Additional Solicitor-General; and

(ii) in relation to an Administrative Tribunal for a State or a Joint Administrative Tribunal for two or more States, as a reference to the Advocate-General of the State or any of the States for which such Tribunal has been established.’

Section 2(c) of the Act of 1971 defines ‘Criminal Contempt’. It reads as under:

‘2(c) “*criminal contempt*” means the publication (whether by words, spoken or written, or by signs, or by visible representation, or otherwise) of any matter or the doing of any other act whatsoever which—

(i) scandalises or tends to scandalise, or lowers or tends to lower the authority of, any court; or

(ii) prejudices, or interferes or tends to interfere with, the due course of any judicial proceeding; or

(iii) interferes or tends to interfere with, or obstructs or tends to obstruct, the administration of justice in any other manner.’

Section 15 of the Act of 1971 deals with cognizance of criminal contempt in cases other than the contempt referred to in Section 14 thereof. It reads as under:

‘15. Cognizance of criminal contempt in other cases:—(1) In the case of a criminal contempt, other than a contempt referred to in section 14, the Supreme Court or the High Court may take action on its own motion or on a motion made by—

(a) the Advocate-General, or

(b) any other person, with the consent in writing to the Advocate-General, [or]

[(c) in relation to the High Court for the Union territory of Delhi, such Law Officer as the Central Government may, by

notification in the Official Gazette, specify in this behalf, or any other person, with the consent in writing of such Law Officer.]

(2) In the case of any criminal contempt of a subordinate Court, the High Court may take action on a reference made to it by the subordinate Court or on a motion made by the Advocate-General or, in relation to a Union territory, by such Law Officer as the Central Government may, by notification in the Official Gazette, specify in this behalf.

(3) Every motion or reference made under this section shall specify the contempt of which the person charged is alleged to be guilty.

Explanation.—In this section, the expression “Advocate-General” means—

- (a) in relation to the Supreme Court, the Attorney-General or the Solicitor-General;
- (b) in relation to the High Court, the Advocate-General of the State or any of the States for which the High Court has been established;
- (c) in relation to the Court of a Judicial Commissioner, such Law Officer as the Central Government may, by notification in the Official Gazette, specify in this behalf.’

In the light of Section 17 of the Act of 1985, there can be no doubt that the Tribunal has the power to punish for criminal contempt under Section 15 of the Act of 1971. There can also be no doubt as to the power of the Tribunal to initiate contempt proceedings *suo motu*. However, the issue is whether the Tribunal followed the due procedure while doing so in the cases on hand.

As already pointed out in the interim order passed in these writ petitions, the Tribunal went about numbering both the criminal contempt cases on 06.06.2016 in the first instance and thereafter, took cognizance against the petitioners in these cases. In the event the contempt case was initiated *suo motu*, it had to be preceded by a judicial order directing the Registry of the Tribunal to number the case and then issue notices for appearances of the alleged contemnors. Here, the cart preceded the horse

as the numbering was done in the first instance and then the order was passed on 06.06.2016 by the Chairman and the Member, stating that cognizance was taken against both the petitioners under Section 12 of the Act of 1971. This also constitutes an irregularity as it was a criminal contempt case under Section 15 and cognizance ought not to have been taken under Section 12 of the Act of 1971, relating to civil contempt.

Further, the original record produced before this Court demonstrates that the order was passed on 06.06.2016 without the matter being listed before the Tribunal. The matters seem to have been taken up in Chambers and the orders dated 06.06.2016 passed in both the contempt cases were in the nature of administrative orders.

Sri T.Ramulu, learned counsel, fairly conceded this aspect on 31.08.2016 itself when this Court passed interim orders. He also conceded that the matters were not even listed before the Tribunal on the said date, whereby judicial orders could have been passed by the Bench. It may also be noted that no specific charges were ever framed by the Tribunal against either of the petitioners.

In MUTHU KARUPPAN, COMMISSIONER OF POLICE, CHENNAI V/s. PARITHI ILAMVAZHUTHI³, the Supreme Court observed that contempt proceedings, being quasi-criminal in nature, the burden and the standard of proof is the same as required in criminal cases and therefore, the proceedings require strict adherence to the procedure prescribed under the rules applicable to such proceedings. Again, in ANUP BHUSHAN VOHRA V/ s. REGISTRAR GENERAL, HIGH COURT OF JUDICATURE OF CALCUTTA⁴, the Supreme Court, while dealing with the question as to whether the appellants before it had committed

³ (2011) 5 SCC 496

⁴ (2011) 13 SCC 393

criminal contempt, observed that in a matter pertaining to criminal contempt, the issue has to be proved beyond reasonable doubt and found on facts that the charge of criminal contempt had not been made out in a manner known to law, inasmuch as no formal charge was ever framed.

Therefore, in the light the of the aforestated legal position, *suo motu* initiation of contempt proceedings by the Tribunal without even framing a formal charge against either of the petitioners cannot be sustained. A part of Para 4 of the affidavit filed in support of the review applications in both the O.As., which offended the Tribunal, was extracted. It is not indicated, however, as to how any averment in the said extracted portion scandalized or lowered the authority of the Tribunal. At best, the averments therein amounted to an innuendo to the effect that the decision rendered by the Tribunal might not have been free from bias. Further, this averment was made by the party who deposed to the said affidavit, i.e., Sri Y.Adinarayana Murthy, the applicant in the OAs. The counsel who drafted the said affidavit for his client, namely, Sri P.V.Krishnaiah, Advocate, could at best be blamed with failure to advise his client not to make such insinuating statements but could not be held liable for the averments by the deponent to the affidavit to the extent of facing criminal contempt proceedings.

Be it noted, an Advocate will base his efforts on points which look like the truth, even if they do not correspond with it exactly⁵. Further, the fundamental role of an Advocate is not to enlarge the intellectual horizon as his task is to seduce, to seize the mind for a pre-determined end, and not to explore paths to truth⁶.

Be that as it may.

⁵ Cicero, De Oratore (Translation E.W.Sultan and H.Rackham), Loeb Edn, 1942

⁶ Felix Frankfurter 'Mr.Justice Jackson' 68 Harvard Law Review 937, 939 (1955)

On the above analysis, this Court finds that though the Tribunal had the power to *suo motu* initiate criminal contempt proceedings, it necessarily had to adhere to the procedure prescribed in that regard. In the cases on hand, the very inception of the criminal contempt proceedings against the petitioners was mired in illegality, as no judicial order *suo motu* initiating contempt proceedings was ever passed by the Tribunal. The criminal contempt cases were first numbered and thereafter taken up in Chambers, whereupon orders were passed on 06.06.2016. The matters were not even listed for hearing on the said day. These orders were therefore practically in the nature of administrative orders. In consequence, the Tribunal cannot be permitted to go on with these contempt proceedings, which were initiated without the substratum of law and in utter violation of the prescribed procedure.

The writ petitions are accordingly allowed quashing Contempt Case (Criminal) Nos.1 and 2 of 2016 on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad, and the notices dated 06.06.2016 and 01.08.2016 issued therein, along with other subsequent notices, if any. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR,J

M.GANGA RAO,J

1st MAY, 2018

PGS