

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND**

THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

Writ Appeal No.524 of 2018 and Writ Petition No.8261 of 2018

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

Heard Sri M.Govind Reddy, learned counsel for the appellant (2nd respondent in the writ petition) and Sri T.Surya Satish, learned counsel for the 2nd respondent-writ petitioner; and, with their consent, both the Writ Appeal and the Writ Petition are disposed of by this common order.

The appellant herein is the 2nd respondent in the writ petition, and the complainant before the Learned Ombudsman, appointed in terms of the recommendations of Justice R.M.Lodha Committee constituted by the Supreme Court. Among the disqualifications prescribed, for a person to continue to hold office as the Secretary of the Hyderabad Cricket Association (HCA), is if he has been charged of an offence by a Court of law. The appellant (2nd respondent in the writ petition) invoked the jurisdiction of the Learned Ombudsman contending that, since the name of the 2nd respondent-writ petitioner figured as an accused in two final reports filed under Section 173(2) of the Code of Criminal Procedure, 1973 (for short "Cr.P.C"); and, in one of them, summons had also been served, the 2nd respondent-writ petitioner had suffered the disqualification of having been charged of an offence by a Court of law.

While Sri M.Govind Reddy, learned counsel for the appellant (2nd respondent in the writ petition), would draw our attention to Section 251 Cr.P.C to contend that the Court does not frame charges in all cases; and the disqualification for holding office, on being charged of an offence by a Court of law, would bring within its ambit a person arrayed as an accused, for an offence under the Indian Penal Code, in a final

report filed under 173(2) Cr.P.C also, Sri T.Surya Satish, learned counsel for the 2nd respondent-writ petitioner, would submit that it is only after summons are served, and charges are framed by the Court under Section 228 Cr.P.C would a person suffer disqualification under the Rules and Regulations of HCA; and since the Learned Ombudsman erred in holding that mere filing of a final report under Section 173(2) Cr.P.C attracted the disqualification, the order of the learned Ombudsman dated 08.03.2018 is liable to set aside.

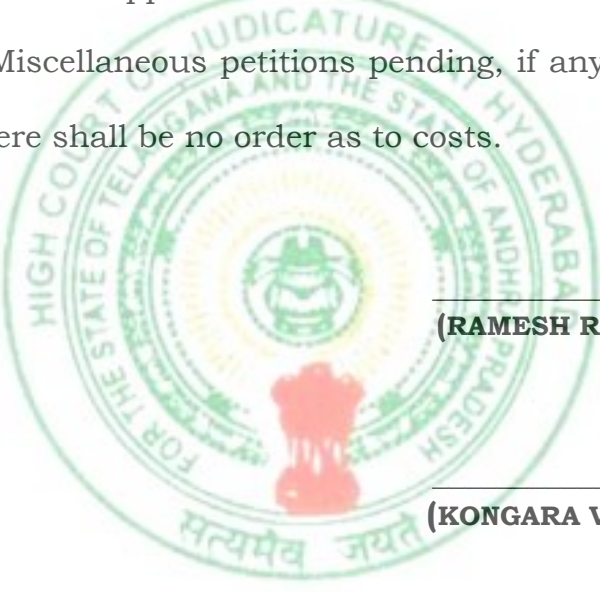
In an appeal preferred against an ad-interim order, it would be wholly inappropriate for us to express any opinion in this regard, more so when this issue has not been considered by the Learned Single Judge. While we would, ordinarily, have relegated the appellant (2nd respondent in the writ petition) to the remedy of seeking vacation of the interim order passed by the Learned Single Judge, Sri M.Govind Reddy, learned counsel for the appellant (2nd respondent in the writ petition) would submit that it would suffice if the matter is remanded to the Learned Ombudsman to examine this issue within a specified time frame. Sri T.Surya Satish, learned counsel for the 2nd respondent-writ petitioner, also agrees for such an order to be passed.

We consider it appropriate, in such circumstances, to set aside the order passed by the Learned Ombudsman in Case No.05 of 2017 of Case No.03 of 2018 and batch dated 08.03.2018 to the extent the 2nd respondent-writ petitioner is concerned, and to remand the matter for his consideration afresh on the question whether, a final report being filed against the 2nd respondent-writ petitioner under Section 173(2) Cr.P.C, and summons being issued to him, would amount to his being charged of an offence by a Court of law, attracting the disqualification under the Rules and Regulations of HCA necessitating the 2nd

respondent-writ petitioner being directed to cease to hold office as the Secretary of HCA.

While Sri M.Govind Reddy, learned counsel for the appellant (2nd respondent in the writ petition), would request this Court to fix a time frame for this question to be decided by the Learned Ombudsman, we must bear in mind that the Learned Ombudsman is a retired Judge of this Court and a retired Chief Justice of a High Court, and it would be wholly inappropriate for us to issue any such directions. Suffice it, therefore, to request the Learned Ombudsman to examine this issue and pass appropriate orders at the earliest.

Both the Writ Appeal and the Writ Petition are disposed of accordingly. Miscellaneous petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.



(RAMESH RANGANATHAN, ACJ)

(KONGARA VIJAYA LAKSHMI, J)

04th April, 2018

Note: Issue C.C by 07.04.2018.

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Date: 04.04.2018

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