

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.10599 OF 2018

ORDER:

This Writ Petition is filed challenging the Charge Memo No.4703/CPR&RE/B1/2015, dated 14.12.2017 issued by the 2nd respondent based on the charge sheet filed by the 3rd respondent in CC No.404 of 2017, dated 25.09.2017.

2. Heard learned counsel for the petitioner and learned Government Pleader for Services-I on behalf of the respondents.

3. Learned counsel for the petitioner submits that the impugned Charge Memo is issued basing on the charge sheet filed by the 3rd respondent-Police in CC No.404 of 2017, dated 25.09.2017. He also submits that when identical charges are framed in disciplinary proceedings and criminal proceedings and that continuation of disciplinary proceedings adversely affect his defence in criminal proceedings, as such, disciplinary proceedings have to be stayed. He also submits that the charges in both the disciplinary proceedings and criminal proceedings are one and the same so also the witnesses and that the defence of the petitioner would be affected in criminal proceedings. In support of his contention, he relied on the judgment reported in **Cap. M.Paul Antony v. Bharat Gold Mines Ltd.,¹ and Stanzen Toyotetsu India Pvt Ltd., v. Girish V.²**

4. On the other hand, learned Government Pleader for Services submits that staying of disciplinary proceedings when criminal

¹ (1999) 3 SCC 679

² (2014) 3 SCC 636

proceedings are pending is not automatic and it all depends upon the facts and circumstances of each case. He also submits that criminal case should be grave in nature involving complicated questions of fact and law, and when disclosing his defence in departmental proceedings, affects the defence of the delinquent officer in criminal case then only departmental proceedings can be stayed. He also submits that in the present, the petitioner already submitted explanation to the charge memo, as such, the question of defence being affected in criminal case does not arise. He also submits that though the charges are grave in nature, but no complicated questions of fact or law are involved. In support of his contention, he relied on the judgment reported in **State Bank of India v. Neelam Nag**³ and sought for dismissal of Writ Petition.

5. In this case, it is to be seen that the petitioner filed explanation on 12.03.2018 to the impugned Charge Memo dated 14.12.2017. When once the petitioner filed explanation to the impugned Charge Memo, the question of affecting his defence in criminal proceedings does not arise and that stage has already been passed. Basing on the allegations that the petitioner in his official capacity as Divisional Panchayat Officer, Peddapally, has misused his position, the following charges have been framed against the petitioner.

“Article No.I:-

That Sri K.Venkaiah, former Divisional Panchayat Officer, Peddapally (U/S) has cheated and created forged documents with the help of some private persons on the pretext of providing Government jobs to the un-employed

³ 2016 Law Suit (SC) 888

youth in Panchayat Raj Department as Computer Operators, Attenders and collected amount of Rs.5.00 to 8.00 lakhs each from them by issuing forged appointment orders, through the private persons.

Article No.II:-

That Sri K.Venkaiah, former Divisional Panchayat Officer, Peddapally (U/S) has informed to Sri K.Ravi Kumar about the appointments of Attenders/Computer Operators under G.O.Nos.112 and 212 in Gram Panchayats and to procure the un-employed youth and appoint them as Computer Operators and Attenders on the pretext of said G.O by taking advantage of his official designation.

Article No.III:-

That Sri K.Venkaiah, former Divisional Panchayat Officer, Peddapally (U/S) has created the orders in the name of the Government of Telangana duly forging the signatures of higher officers, with the private persons who have involved in the criminal case.

Article No.IV:-

That Sri K.Venkaiah, former Divisional Panchayat Officer, Peddapally (U/S) has either not taken any steps, when the un-authorized computer Operators are working in the Gram Panchayats of his respective jurisdiction, or not brought the facts to the notice of the higher authorities, which establishes that, he has colluded with the persons who has created the forged orders.”

A perusal of the charges framed against the petitioner goes to show that they are grave in nature. Though learned counsel for the petitioner submits that there are no allegations against petitioner in the charge sheet filed in criminal case and not even a single witness spoke against the petitioner, but the fact remains that proof in criminal proceedings requires beyond reasonable doubt and mere preponderance of evidence is sufficient in disciplinary proceedings. As far as involvement of complicated questions of fact is concerned, I do not see any complicated question of facts are involved in the present case. In **State Bank of India v. Neelam Nag** (supra), the Hon'ble Apex Court held

greater care should be taken while staying the disciplinary proceedings pending criminal proceedings and that unless the charges are grave in nature involving complicated questions of facts and law, stay of disciplinary proceedings cannot be granted. As I have already observed supra, since the petitioner has submitted explanation to the impugned Charge Memo, affecting his defence in criminal proceedings does not arise at all.

In view of above facts and circumstances, I do not see any merit in this Writ Petition and same is liable to be dismissed and accordingly dismissed.

There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any pending in this writ petition shall stand dismissed.

04-04-2018
kvs



A.RAJASHEKER REDDY, J

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

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Date: 04.04.2018

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