

**HON'BLE SRI JUSTICE SURESH KUMAR KAIT
AND
HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI**

WRIT PETITION No.22193 of 2018

ORDER: (ORAL)

(Per Suresh Kumar Kait, J)

Vide the present writ petition, petitioner has assailed order dated 20.06.2018 passed in O.A.No.1048 of 2018 by the Andhra Pradesh Administrative Tribunal, Hyderabad, whereby the application filed by him under Section 19 of the Administrative Tribunals Act, 1985 has been dismissed, by observing as under:

“When the applicant gave representation to the Deputy Chief Minister (Revenue), it was endorsed thereon that “D&IG, R&S, Please examine & consider the request”. When there is a clear prohibition contained in Para 4 of G.O.Ms.No.57 entertaining applicant from a Government servant who is facing ACB case, the Government sent the representation to the Deputy Inspector General of Registration and Stamps for consideration and necessary action. In the absence of exempting the applicant’s case from the bar contained in Para 4 of G.O.Ms.No.57, the 3rd respondent has no other go except to reject the transfer application of the applicant. Therefore, this Tribunal does not find any reason to interfere with the matter.”

2. Learned counsel appearing on behalf of the petitioner submits that on 29.07.2015, the ACB conducted surprise check at Gudur Sub-Registrar’s office. As per the report of the surprise check proceedings, there are no allegations against the petitioner and particulars of cash available with the petitioner were also mentioned.

After conducting surprise check by the ACB, the said proceedings were sent to the Government for taking further action. The said incident had taken place on 29.07.2015, however, so far, no enquiry officer has been appointed and no charge sheet has been filed. But when the petitioner made a request for transfer, the Government informed the 3rd respondent vide Memo dated 21.05.2018, stating that ACB officials had conducted a surprise check in the office of Sub-Registrar, Gudur and found certain irregularities against the petitioner and another. The Director General, ACB has furnished detailed report in the matter and recommended to place the accused officers before T.D.P., and the same is under examination of the Government. However, no charges have been framed against the petitioner till date. But, the 3rd respondent has rejected the request of the petitioner for transfer.

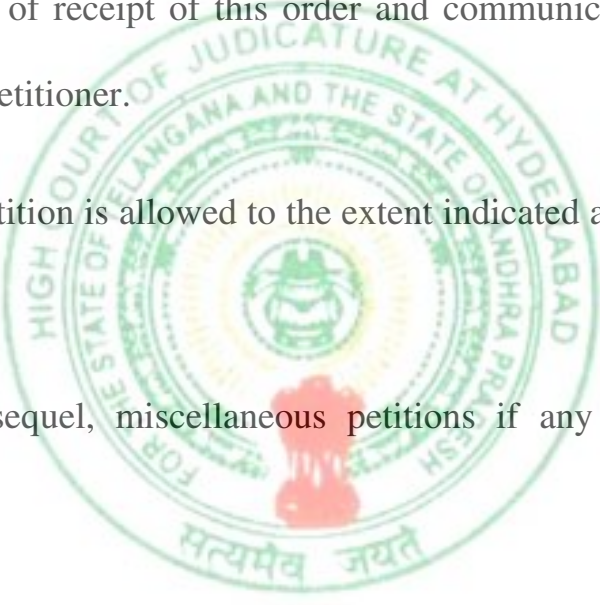
3. The learned Tribunal has referred Para 4 of G.O.Ms.No.57 with regard to entertaining application from a Government servant who is facing ACB case and held that in the absence of exempting the case of the petitioner from the bar contained in Para 4 of the said G.O., the 3rd respondent has rejected the application of the petitioner. But, the fact remains that, till date, there is no charge memo or charge sheet issued against the petitioner by the respondents. Moreover, no case has been registered by the ACB against the petitioner. The said facts have not been disputed by the learned Government Pleader appearing on behalf of the respondents.

4. In view of the above, when there is no material against the petitioner either in the proceedings issued by the respondents or by the ACB, Para 4 of G.O.Ms.No.57 is not applicable in the case of the petitioner. Therefore, the Tribunal erred in dismissing the O.A., filed by the petitioner.

5. Accordingly, we hereby set aside the order under challenge. Consequently, respondents are directed to consider the case of the petitioner for transfer and pass appropriate orders within two weeks from the date of receipt of this order and communicate the decision taken, to the petitioner.

6. Writ petition is allowed to the extent indicated above. No order as to costs.

As a sequel, miscellaneous petitions if any pending, stand closed.


SURESH KUMAR KAIT, J

ABHINAND KUMAR SHAVILI, J

July 17, 2018
MRR