

**HON'BLE THE CHIEF JUSTICE
SRI THOTTATHIL B. RADHAKRISHNAN**

AND

HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT APPEAL No.1487 of 2016

JUDGMENT: *(Per the Hon'ble the Chief Justice Sri Thottathil B. Radhakrishnan)*

We have heard the learned counsel for the appellant/writ petitioner and the learned Government Pleader appearing for the Department.

The fifth respondent is a Sub-Inspector of Police. At the threshold of his attempt to enter service, certain criminal cases were shown and his provisional selection was cancelled. Thereafter, another complaint was instituted by the writ petitioner, also alleging offences punishable under Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. That led to an investigation and a closure report. The writ petition is filed alleging that the closure report is challenged by instituting a protest complaint and, hence, on the facts and in the circumstances of the case, the fifth respondent should not be permitted to continue in police service.

The learned Single Judge, after assimilating the facts held that there is no ground to interfere with the service of the fifth respondent. However, the learned Single Judge also made certain observations which triggered the jurisdictional police of East Godavari District to

initiate proceedings against the writ petitioner. It is apposite to quote the following from the impugned order.

“In fact, the Superintendent of Police, East Godavari District should have considered it appropriate to initiate necessary action against the complainant for lodging a false case, so that a correct message would have percolated in the village.”

Having considered the materials on record and having bestowed our anxious deliberation on the issues which arose for decision of the writ petition, the afore-quoted observation was unnecessary and extraneous to the matter, which called for adjudication in writ jurisdiction. This is all the more so because the said observation has the potency to have a criminal case initiated. This has actually happened. In the fitness of things, it is only appropriate that the aforesaid observation in the impugned order is vacated.

In the result, this appeal is allowed vacating the aforesaid observation in the order of the learned Single Judge.

As a sequel thereto, Miscellaneous Applications, if any, pending stand closed.

THOTTATHIL B. RADHAKRISHNAN, CJ

RAMESH RANGANATHAN, J

July 13, 2018.

v v/kvni