

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

W.P.NOS.10645 AND 10663 OF 2017

COMMON ORDER

Since both the writ petitions arise out of same crime registered against the petitioners and facts are similar, they are being disposed of by this common order.

Petitioners in both the writ petitions have been working as constables. As they were involved in Crime No.164/2010 under Sections 419, 420, 120(B) of IPC and Section 3 of A.P. Public Examination (Prevention of Malpractice and Un-fair Means) Act, 1997 on the file of Tipparthy Police Station, Nalgonda District, disciplinary proceedings were initiated and pending enquiry, they were kept under suspension by the impugned orders dated 05.02.2018 and 19.1.2018 respectively. Aggrieved by the same, present writ petitions have been filed.

Learned counsel for the petitioners would submit that petitioners are not at all involved in the crime and they were implicated based on confession statement of other accused and the crime registered against the petitioners was of the year 2010 and they were arrested in the year 2018 and there is no *prima facie* material to implicate them in the crime. Without considering these factors, the disciplinary authority kept the petitioners under suspension. Learned counsel submits that before suspending the petitioners, no notice was given and no preliminary inquiry was also conducted to *prima facie* satisfy whether there is any material on record to suspend the petitioners. Learned counsel, relying on the judgment of a Division Bench of this court in ***P.RAJENDER v. UNION OF INDIA***¹, contended that suspension cannot be ordered in a rote manner simply because the rules enable for it and that the authorities have to consider the public interest and also the relevant facts and circumstances and that suspension of an

¹ 2001(5) ALD 290 (DB)

employee on the mere ground of filing of a case against him, is arbitrary and illegal. Therefore, he sought to set aside the impugned suspensions.

On the other hand, the learned Assistant Government Pleader for Services, submit that petitioners were involved in the above said criminal case and they were in judicial custody for more than forty eight hours and as such, they were kept under suspension. As disciplinary inquiry is contemplated against the petitioners, suspension pending such inquiry, may not be interfered with. With these submissions, he sought to dismiss the writ petitions.

Normally this court will not interfere with the order of suspension pending inquiry, unless the same is without jurisdiction. In the present case it is not the case of the petitioners that the authority, which issued the impugned suspension orders, lacks jurisdiction. The petitioners are involved in the crime for the offences punishable under Sections 419, 420, 120(B) of IPC and Section 3 of A.P. Public Examination (Prevention of Malpractice and Un-fair Means) Act, 1997, and they were under judicial custody for more than forty eight hours. However, the truth or otherwise of the allegations would be decided during the course of investigation or trial. The fact remains that they are involved in offences, the gravity of which is serious in nature and investigation is stated to be in progress. Therefore, considering the facts and circumstances, the disciplinary authority kept the petitioners under suspension pending disciplinary proceedings.

In the judgment of the Division Bench relied on by the counsel for the petitioners, the facts disclose that the petitioner therein was alleged to have committed the offences punishable under Section 494 and 498-A of IPC and investigation is completed and charge sheet also has been filed. In those circumstances, the Division Bench held that suspension cannot be ordered in a route manner simply because the rules enable for it, without considering the relevant facts and circumstances. In the present case, as already noted above, the gravity of the offences alleged against the petitioners is serious in nature and

investigation is in progress. Therefore, the judgment of the Division Bench cannot be made applicable to the facts of the case on hand on all fours.

In view of the facts and circumstances, I do not find any reason to interfere with the impugned proceedings and the writ petitions are devoid of any merit and the same are accordingly dismissed at the stage of admission.

Miscellaneous petitions pending, if any, shall stand closed. No costs.

A.RAJASHEKER REDDY,J

DATE:02—04—2018

AVS

