

THE HONOURABLE SRI JUSTICE SURESH KUMAR KAIT
AND
THE HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.34662 of 2017

ORDER: (Per the Hon'ble Sri Justice Suresh Kumar Kait)

Appeared none on behalf of the petitioner on the last two consecutive dates and same is the position today. Hence, we have no option, except to proceed with the disposal of the writ petition.

2. This writ petition is filed challenging the order dated 11.08.2017 passed in Complaint No.798/2016/B1 by the Lokayukta, State of Telangana, directing the Director (Investigation) of the Institution to investigate into the matter and file his investigation report by 17.11.2017.

3. The brief facts as narrated in the present petition are that the petitioner is working as Chief Medical Officer in Singareni Collieries Company Limited, which is a Government Company within the meaning of Section 2 of Companies Act, 2013 and is exclusively engaged in the work of exploration, excavation, extraction and mining of coal in the six Districts of Komaram Bheem (Asifabad), Mancherial, Peddapalli, Jayashankar (Bhoopalpalli), Bhadradi (Kothagudem) and Khammam of Telangana State and that the said company is a commercial entity and 51% of the shareholding held by the State of Telangana and 49% by the Government of India. It is further stated that the petitioner does not discharge any public service within the meaning of Section 2(i) of A.P.Lokayukta Act,

1983 (for short 'the Act'). Therefore, the order dated 11.08.2017 passed by the Lokayukta is without jurisdiction.

4. Vide order dated 31.10.2017, this Court granted interim suspension of the order dated 11.08.2017 passed by the Lokayukta and the same is in force till today.

5. Vide order dated 01.02.2018, this Court appointed Sri V. Ravinder Rao, Senior Advocate, as *amicus* to assist the Court with regard to the question as to whether the Chief Medical Officer, Singareni Collieries Company Limited, falls under the purview of the A.P.Lokayukta and Upa-Lokayukta Act, 1983.

6. Learned Senior Counsel has drawn the attention of this Court to Section 2(k) of the Act, whereby 'public servant' is defined as under:

'public servant' means a person who is or was at any time;

- (i) Minister as referred to in clause (g);
- (ii) Member of either House of the State Legislature including the Chief Whip;
- (iii) Officer as referred to clause(i);
- (iv) (1) Every Chair-person, Vice Chair-person and Members of Zilla Praja Parishad and every President and Members of Mandal Praja Parishad and Sarpanch, Upa-Sarpanch and Members of a Gram Panchayat, constituted by or under the Andhra Pradesh Panchayat Raj Act, 1994;
- (2) Every Mayor (Every Deputy Mayor and elected members) of a Municipal Corporation constituted by or under the relevant law for the time being in force;
- (3) Every Chair-person, Vice Chair-person and elected members of a Municipal Council constituted under the Andhra Pradesh Municipalities Act, 1965;)

- (v) Every Chairman or President, by whatever name called of the Governing Body to which the management is entrusted and every director or member, if any, in respect of-
- (1) any local authority in the State of Andhra Pradesh;
 - (2) any statutory body of Corporation (not being a local authority) established by or under (a State Act or a Central Act) and owned or controlled by the Government of Andhra Pradesh and any other Board or Corporation as the Government may having regard to its financial interest therein specify by notification in the Gazette from time to time;
 - (3) any Government company within the meaning of Section 617 of the Companies Act, 1956 in which not less than 51 per cent of its paid up share capital is held by the Government of Andhra Pradesh or any Company which is a subsidiary of such company;
 - (4) any society registered under the Andhra Pradesh Societies Registration Act, 2001 which is subject to the control of the Government;
 - (5) any Co-operative Society registered or deemed to be registered under the Andhra Pradesh Co-operative Societies Act, 1964 and the Andhra Pradesh Mutually Aided Co-operative Societies Act, 1995 having its area of operation in the State either whole or in part;)
 - (6) Member of a Committee or Board, statutory or non-statutory constituted by the Government of Andhra Pradesh;
 - (vi) every Vice-Chancellor and Registrar of a University in the State established by law made by the State Legislature;
 - (vii) Officer in the service or pay of a local authority, University, Statutory Body or Corporation, Society or other institutions (as is referred to in sub-clauses (iv) to (vi)).

Under Section 2(k)(3) of the Act, it is described as under:

“any Government company within the meaning of Section 617 of the Companies Act, 1956 in which not less than 51 per cent of its paid up share capital is held by the Government of Andhra Pradesh or any Company which is a subsidiary of such company;

Section 2(k)(vii) reads as under:

“Officer in the Service or pay of a local authority, University, Statutory Body or Corporation, Society or other institutions (as is referred to in sub-clauses (iv) to (vi)).

7. It is the admitted case of the petitioner that the Singareni Collieries Company Limited is a commercial entity and 51% of the shareholding held by the State of Telangana and 49% by the Government of India. Thus, in view of the provisions referred in para-6 above, we are of the considered view that the petitioner's case falls under the jurisdiction of Lokayukta to pass the order.

8. In view of the above, we are not inclined to interfere with the order dated 11.08.2017 passed in Complaint No.798/2016/B1 by the Lokayukta and the Writ Petition is accordingly dismissed. No order as to costs. Miscellaneous petitions, if any, pending in this petition shall stand dismissed.



SURESH KUMAR KAIT, J

ABHINAND KUMAR SHAVILI, J

14th June, 2018
sj