

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.6091 of 2019

ORDER:

This Writ Petition is filed assailing the action of the respondents 1 to 4 in withdrawing the security personnel deployed to safeguard the life and liberty of the petitioner.

2. It is the case of the petitioner that he is an instrumental in providing valuable information regarding frauds committed by M/s. Leo Meridian Infrastructure Projects & Hotels Limited, as such, the 5th respondent accorded him the status of whistle blower vide letter No.DPBSB2015/RC.2/E/2015-CBI/BS&FC/BLR/3580, dated 10.12.2015, addressed to the 2nd respondent, requesting him to provide adequate security cover. Thereafter, the Director and Promoter of M/s.Leo Meridian Infrastructure Projects & Hotels Limited had been taken into custody for non-cooperation in the investigation pertaining to evasion of taxes and alleged fraud. The 1st respondent through Memo No.112/SC/A2/2016-1, dated 02.08.2016 had requested the 2nd respondent to issue necessary instructions to the 3rd respondent to take necessary action in providing security to petitioner. Subsequently, the Duty Officer, CSW, Cyberabad East had deputed two security personals with Rank & Gen.No.PC 1312, PC 468 to perform PSO duty along with necessary arms & ammunition to protect the petitioner from 19.08.2016. Upon threat from various perpetrators, when the petitioner requested

the 1st respondent to provide extra security cover, the 1st respondent issued a Memo No.112/SPL/A2/2016-2, dated 24.10.2017 and instructed the 2nd respondent to issue necessary instructions to the 3rd respondent to take further action as per rules and procedure, keeping in view of the letter of the 5th respondent dated 10.12.2015. Though the petitioner was provided security from 19.08.2016 till 31.12.2018, the same is withdrawn by the 3rd respondent, without any reason and notice to the petitioner. Though the petitioner made representations on 19.02.2019 to the 3rd respondent, on 05.03.2019 to 1 to 4 respondents and also made a representation dated 07.03.2019 to the Commissioner of Cyberabad, no action has been taken. Aggrieved by the action of the respondents in withdrawing the security, to safe guard his life and liberty, present Writ Petition is filed.

3. Counter affidavit is filed by the 4th respondent denying the averments in the affidavit filed in support of the Writ Petition stating that basing on the recommendation of the Director, CBI, BS & FC, Bangalore, the petitioner, who had been instrumental in registration of cases against M/s.Leo Meridian Infrastructure Projects & Hotels Limited and its directors & promoters, on the allegation of fraud, provided him security of two Personal Security Officers from the office of the Police, Cyberabad, since 19.08.2016 to 31.12.2018. Since the petitioner began misusing the services of the PSOs by abusing them in filthy language and subjecting them to harassment in an inebriated condition, basing on the written

statements of Police Constables 4549 S. Chandraiah and 4607 M.A.Saibaba on 30.12.2018 and 02.01.2019 respectively, the security provided to the petitioner was withdrawn on 01.01.2019. The 3rd respondent addressed a letter to the 4th respondent to furnish Threat Perception Report of the petitioner, who in turn submitted the same on 21.01.2019 stating that a case in Cr.No.231/2013 for the offences under Sections 385, 506, 507 IPC of Shamirpet Police Station is registered against the petitioner and same is pending trial vide C.C.No.201/2014 before the XXI Metropolitan Magistrate Court, Medchal. It is also stated that the petitioner also lodged a complaint in Cr.No.2/2015 for the offences under Sections 120B r/w 420, 467, 468, 471 of IPC with Bangalore CBI, BS & FC, 2015. Since the petitioner had been misusing the services of PSOs and abusing them in intoxicated condition, existing security had been withdrawn and it is not recommended to provide security. As per the proceedings of the Security Review Committee Meeting-2019 held on 22.01.2019, the security provided to the petitioner was withdrawn, in the absence of threat from any individual or group, as such, petitioner is not eligible to have PSOs. Pursuant to the representations of the petitioner dated 19.02.2019, 05.03.2019 and 07.03.2019, the 3rd respondent addressed letters on 21.02.2019 and 14.03.2019 to the Director, CBI, BS & FC, Bangalore, to clarify whether the petitioner is having status of a whistle blower or not and a report is stated to be awaited and that Section 12 of the Whistle Blower Protection Act, 2014 is not applicable to the petitioner.

4. Additional counter affidavit is filed stating that after filing of charge sheet in CC NO.201/2014 before the XXI Metropolitan Magistrate Court, Medchal, the same was numbered as CC No.397/2014, in which, the petitioner was acquitted on 07.09.2018. In pursuance to the letter addressed by the 3rd respondent on 31.01.2019, the Director General of Police, CBI, Telangana State, in his reply stated that two criminal cases are under trial and one case is under investigation and requested to provide security to the petitioner, as such, the local police would keep Point Book at his residence/office and the patrolling vehicles and local police would check up the Point Books from time to time and also that whenever petitioner goes out of station, on his request, gunmen would be provided to him on payment basis, by following due procedure.

5. Reply affidavit is filed by the petitioner denying the averments in the counter and additional counter affidavits and reiterated the averments in the affidavit filed in support of the Writ Petition.

6. Heard learned counsel for the petitioner and learned Government Pleader for Home appearing for respondents 1 to 4.

7. Learned counsel for the petitioner, while reiterating the averments in the affidavit filed in support of the writ petition, submits that since the petitioner was given status of Whistle Blower, he is entitled for protection under Section 12 of Chapter V of the Whistle Blowers Protection Act, 2014 and same was granted to him from 19.08.2016 to 31.12.2018, but the same was

withdrawn without any reason and also without giving notice. She submits that basing on the complaints of the PSOs, the security was withdrawn from 01.01.2019, on false and flimsy grounds, even without the review undertaken by Threat Perception Committee. She further submits that though in the additional counter affidavit, it is asserted that whenever petitioner goes out of station, security would be provided, but in fact, petitioner requires protection within the city.

8. On the other hand, learned Government Pleader for Home submits that the petitioner was provided security with two PSOs, but when he misbehaved with the said two PSOs, the security was withdrawn on that ground. He also submits that there is no threat perception to the petitioner as per the report of the Threat Perception Committee. However, he submits that the petitioner will be provided necessary security, whenever he goes out of station.

9. In this case, it is to be seen that admittedly, in pursuant to the letter addressed by the 5th respondent dated 10.12.2015, police security was provided to the petitioner with two PSOs namely S.Chandraiah PC-4549 and M.A.Saibaba, AR PC 4607 from 19.08.2016 to 31.12.2018. Section 12 of the Whistle Blowers Protection Act, 2014, reads as follows:

“12. Protection of witnesses and other persons:- If the Competent Authority either on the application of the complainant, or witnesses, or on the basis of information gathered, is of the opinion that either the complainant or public servant or the witnesses or any person rendering assistance for inquiry under this Act need protection, the Competent Authority shall issue appropriate directions to the concerned Government authorities (including police) which shall take necessary steps, through its

agencies, to protect such complainant or public servant or persons concerned.”

Letter addressed by the 5th respondent dated 10.12.2015 goes to show that since the petitioner was instrumental in registration of crimes against M/s.Leo Meridian Infrastructure Projects & Hotels Ltd., he was granted status of ‘Whistle Blower’. A perusal of the counter affidavit filed by the 4th respondent goes to show that the security provided to the petitioner was withdrawn, as he himself misbehaved with the PSOs, who gave their written statements on 30.12.2018 and also on 02.01.2019. It is pertinent to note here that the statement given by M.A.Saibaba, PC 4607 is subsequent to withdrawal of the security to the petitioner. Only on the unilateral statements of the PSOs, the security provided to the petitioner was withdrawn and he was not given any opportunity to cross-examine them. It is also a fact that the Threat Perception Committee reviewed the Threat Perception to the petitioner on 21.01.2019, i.e., subsequent to the withdrawal of the security. In the counter affidavit, it is categorically stated that as per the proceedings of (SRC-2019) Security Review Committee Meeting 2019 held on 22.01.2019, it was decided to withdraw the security in the absence of any specific threat from any individual or group, as per the guidelines issued vide G.O.Rt.No.655, Home (SC.B) Department, dated 13.03.1997. Even according to the letter addressed by the CBI, Banking Securities Frauds Branch, Bangalore dated 14.05.2019 to the 2nd respondent, which is filed along with additional counter affidavit, makes it clear that the 2nd respondent was requested to

take suitable precautionary measures as may be necessary regarding safety concerns of the petitioner, as the petitioner was instrumental in providing information, which resulted in registration of three cases of Bank fraud relating to M/s. Leo Meridian Infrastructure Projects & Hotels Ltd, its directors & promoters and out of which two cases are under trial and one case is under investigation. Admittedly, even subsequent to the withdrawal of the security, the office of the 5th respondent addressed letter dated 14.05.2019 to the 2nd respondent for taking precautionary measures regarding safety concerns of the petitioner, as he was responsible for unearthing fraud and also for registration of cases regarding bank fraud. In view of above, it appears that the withdrawal of police security provided to the petitioner, basing on the letter addressed by the 5th respondent dated 10.12.2015, is illegal and arbitrary.

In view of above facts and circumstances, this Writ Petition is disposed of directing the 3rd respondent to take appropriate steps to once again review the Threat Perception to the petitioner in view of the subsequent letter dated 14.05.2019 addressed by the Central Bureau of Investigation, Banking Securities Frauds Branch, dated 14.05.2019 and take action in accordance with law. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

A.RAJASHEKER REDDY,J

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.6091 of 2019

Date: 14.08.2019

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