

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.18855 OF 2019

ORDER:

This writ petition is filed challenging the order dated 02-08-2019 passed in I.A.No.84 of 2019 in C.T.A.No.25 of 2018 on the file of Cooperative Tribunal at Hyderabad (for short "the Tribunal") wherein and whereby the application filed by the petitioners under Rule 15 of Telangana Cooperative Tribunal (Procedure) Rules,1994 (for short "the Rules") r/w Section 151 C.P.C. requesting to summon the entire original record pertaining to the supersession orders issued in Rc.No.1412/2016-H, dated 13-04-2017 passed by respondent No.3 apart from summoning both respondents 3 and 4 for examination with reference to record.

Learned counsel for the petitioners submits that without considering the scope of Rule 15 of the Rules, the Tribunal dismissed the application by order dated 17-05-2019 and the petitioners filed WP.No.11014 of 2019 and the same was allowed by setting aside the said order and remanded the matter back to Tribunal to consider the matter afresh on merits, but the Tribunal verbatim reproduced the earlier order dated 17-05-2019 and passed the impugned order without considering the scope of Rule 15 of the Rules. He also submits that summoning of respondents 3 and 4 is very much necessary adjudicating the *lis* in the appeal before the Tribunal as respondent No.3 exceeded his jurisdiction and went on harassing the petitioners even after passing the

impugned order of supersession in the appeal pending before the Tribunal and that the entire correspondence between respondent No.3 and the petitioners after passing of the impugned order in the appeal before the Tribunal is very much necessary and relevant for adjudicating the appeal. But without considering the parameters of Rule 15 dismissed the application. He also submits that just because respondent No.3 is a public servant, there is no bar in calling him for giving evidence, the public servant can be called for giving evidence subject to payment of expenses. But the Tribunal without considering the said aspect dismissed the application. He also submits that the entire record is before the Tribunal and it has been called for by respondent No.3 and the same can be put to him for marking the documents.

Heard learned Government Pleader for Cooperation, who, submits that the appeal itself can be disposed of by fixing some time limit. He also submits that respondent No.3 is the statutory authority who passed the impugned order in the appeal, as such calling him for giving evidence does not arise. If the petitioners are aggrieved, they can always challenge the correctness of order passed in the appeal, if it is an erroneous order but respondent No.3 who passed the order cannot be called to the Court for questioning the correctness of order before the Tribunal.

Sri G.Vasantharayudu, learned counsel for the 5th respondent by reiterating the submission of learned Government Pleader for Cooperation submits that the

petitioners filed the application only for dragging on proceedings and on earlier occasion, the matter was remanded back and after consideration, the same order is passed on merits. He submits that the supersession order is questioned in the appeal, as such the entire record has already been called for and it is before the Tribunal, as such the Tribunal has rightly considered the issue and dismissed the application.

In this case it is to be seen that earlier the Tribunal considered I.A.No.84 of 2019 and dismissed the same on 17-05-2019 and this Court in WP.No.11014 of 2014 set aside the same at the instance of petitioners only on the ground that the Member has signed the same and remanded back the matter to the Tribunal for passing the orders on merits. The Tribunal passed the impugned order after hearing both parties and after considering the purport of Rules 15 and 16 of the Rules, which was found in paragraph 11 of the impugned order. The entire record is produced by respondents 1 to 3 and the counsel for the petitioner also verified the same. The Tribunal also found that respondent No.3 being the statutory authority who passed the impugned orders cannot be summoned to give evidence, that the case of the petitioners does not fit in the parameters of Rules 15 and 16 for allowing the application and the Tribunal also found that sufficient reasons were not given for allowing the petition for summoning respondents 3 and 4. A perusal of the affidavit filed in support of I.A.No.84 of 2019 also goes to show that no specific reasons

are given for summoning respondent No.3, who passed the impugned order in the appeal.

It is to be seen that there is no bar in summoning any public servant. In this case respondent No.3 passed the impugned order and even according to learned counsel for the petitioners, the correspondence emanated after passing the impugned order in the appeal wants to be marked, but it is not known what is the relevance of said proceedings while adjudging the impugned order in the appeal. More so, the Tribunal found that the entire record is called for and the same is before it and that no useful purpose would be served in summoning respondent No.3 and the application was filed only to drag on the proceedings to see that the petitioners complete the rest of the term.

Having regard to the above, this Court is of the opinion that the petitioners filed the petition for summoning respondents 3 and 4 only to drag on the proceedings and said petition is frivolous, as such, I do not see any merit in the writ petition and accordingly the same is dismissed. However, the Tribunal is directed to dispose of the appeal as expeditiously as possible since already on two occasions this Court directed the Tribunal to dispose of the appeal on merits.

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

A.RAJASHEKER REDDY,J



