

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.38210 OF 2018

ORDER:

This writ petition is filed with the following prayer:

“...to issue an appropriate Writ, Order or Direction more particularly one in the nature of Writ of Mandamus declaring the inaction of the respondent no.3 herein in not acting upon the complaint dt.18-07-2018 made by the petitioner herein as being illegal, arbitrary and violation of Article 14 and 21 of the Constitution of India and further declare the action of the respondent nos 4 and 5 herein colluding with the accused in crime no.549/2013 of P.S.Medipally for monetary gain is an offence under criminal law and misuse of public office and further declare the action of the respondent nos 4 and 5 herein filing a false report, dt.16.10.2014 in FIR.No.549/2013, dt.27.10.2013 on the file of P.S.Medipally, Cyberabad District without there being a notice to me is being illegal and against the law and violation of statutory law and as well violation of Article 21 of the Constitution of India and pass such other order orders may deem fit and proper in the circumstances of the case.”

Learned Assistant Government Pleader for Home produced written instructions stating that after due investigation, final report was filed in the year 2014 after issuing notice to the petitioner. That the petitioner's representation sent to the 3rd respondent was entrusted to the Assistant Commissioner of Police, Malkajgiri Division and after examining the entire case, he found that investigation was proceeded in correct lines and that there is no foul play in it.

Learned counsel for the petitioner submits that the 2nd respondent and unofficial respondents colluded and as a result, final report is filed and this Court granted order for further investigation and that they have also filed representation before the 3rd respondent.

On the other hand, learned Assistant Government Pleader for Home reiterated the contents of the written instructions and submits that alternative effective remedy is available to the petitioner by way of filing protest petition before the concerned criminal Court. He also submits that the grievance of the petitioner in the representation submitted to the 3rd respondent was also attended to. As such, the writ petition is liable to be dismissed.

In this case, admittedly even according to writ affidavit, Cr.No.549 of 2013 was closed by filing final report vide proceedings dated 16-10-2014. But the only grievance of the petitioner is that no opportunity was given before closing the said case. The representation of the petitioner sent to the 3rd respondent was also attended to by the Assistant Commissioner of Police and found that investigation was conducted in correct lines and there is no foul play. The notice issued to the petitioner was also enclosed along with written instructions and found endorsement of the petitioner dated 18-11-2014 that only copy of notice is served on the petitioner.

Learned counsel for the petitioner by relying on the judgment of **Bharati Tamang v. Union of India** [(2013) 15

SCC 578] submits that this Court has power to issue appropriate directions for further investigation. But in this case final report was already filed in the year 2014 and representation of the petitioner addressed to the 3rd respondent was also considered by the concerned Assistant Commissioner of Police and found that there is no foul play. From the facts narrated in the writ petition as well as contentions of the Government Pleader goes to show that there does not exist any exceptional circumstances warranting interference of this Court in the present matter. However, the petitioner has efficacious alternative remedy by way of approaching the concerned criminal Court where final report is filed, since notice was already received by the petitioner. Since it is found that only notice was issued to the petitioner, the 2nd respondent is directed to serve a copy of final report to the petitioner. It is open for the petitioner to avail alternative remedy by way of filing protest petition before the concerned criminal Court.

With these observations, the writ petition is disposed of. As a sequel to the disposal of this petition, miscellaneous petitions, if any, pending shall stand closed.

A.RAJASHEKER REDDY,J

13-06-2019
Nvl



