

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.2481 of 2020

ORDER

This writ petition is filed seeking the following relief:

“....to issue a writ or order or direction more in the nature of Mandamus quashing the impugned order in letter No.HYG0627044463119, dated 28.01.2020 of the respondent and consequently direct the respondent to issue passport to the petitioner at least for a period of one year forthwith and pass such other order or orders as deemed fit and proper.”

Heard learned counsel on either side.

The grievance of the petitioner is that though the Special Judge for SPE & ACB Cases, Karimnagar, had acquitted him for the offences punishable under Sections 7 and 13 (1)(d) read with 13(2) of the Prevention of Corruption Act, 1988, the respondents are not considering his case for issuance of passport on the ground that ACB has preferred an appeal before this Court.

Learned counsel appearing for the petitioner contended that appropriate orders be passed in the writ petition directing the respondents to consider the case of the petitioner for issuance of passport. In support of his contention, he relied on the judgment of the this Court in *Chief Commissioner of*

*Land Administration vs. R.S.Ramakrishna Rao and another*¹,

wherein at paragraph No.20, it was observed as under:

“Insofar as the criminal cases are concerned, the department has got a right to file an appeal. But, it cannot be said that the judicial proceedings have not been concluded. Once the criminal Court acquits the accused, it must amount to be the conclusion of the judicial proceedings in the first instance. Therefore, the appeals filed against the acquittal orders cannot be treated as continuation of criminal proceedings. The same view was taken by a Division Bench of Calcutta High Court in State of West Bengal’s case (supra), referred to above. Para 9 of the said judgment reads as follows.

“The submission of Mr.Chakraborty to the effect that pendency of the appeal against acquittal will amount to continuation of the proceedings cannot be accepted. Continuation of the proceedings must relate to investigation, enquiry or trial, and such investigation, enquiry or trial, if any, have come to an end with the judgment of acquittal. The same being continuing in the instant case, is misconceived, only on the ground that an appeal there against is pending. If the respondent No.1 is convicted by the Appeal Court for commission of a criminal offence, sub-rule(4) of Rule 3 of the said Rules would be attracted. Keeping in view the fact that different sub-rules of Rules 3 operate in different fields, we are of the opinion that sub-rule(3) of Rule 3 be held to be operative only in the case namely, when an investigation enquiry or trial remains pending and not or when the employee person is acquitted. The situations obtaining under different sub-rule being absolutely different, in our opinion, sub-rule(3) of Rule 3 must be given a restrictive interpretation.”

¹ 2010(2) ALD 773(DB)

Learned Standing Counsel appearing for the respondent contended that if the petitioner submits a fresh application in terms of Gazette Notification vide GSR 570(E), dated 25.08.1993, his case would be considered.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the considered view that this writ petition can be disposed of directing the petitioner to submit a fresh application in terms of Gazette Notification vide GSR 570(E), dated 25.08.1993, within a period of two weeks from the date of receipt of a copy of this order. On receipt of such an application, the respondent shall consider the same and pass appropriate orders within a period of eight weeks thereafter, in accordance with law.

Accordingly, the Writ Petition is disposed of. No costs.

Miscellaneous petitions, if any, pending, shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

Date: 13.02.2020
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