

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

(Special Original Jurisdiction)

THURSDAY, THE THIRTEENTH DAY OF AUGUST

TWO THOUSAND AND TWENTY

:PRESENT:

THE HONOURABLE SRI JUSTICE M.SATYANARAYANA MURTHY
AND
THE HONOURABLE SMT JUSTICE LALITHA KANNEGANTI

W.P.(PUBLIC INTEREST LITIGATION) NO: 168 OF 2020

Between:

BC, SC, ST MINORITY STUDENT FEDERATION, registered Society, under the provisions of Societies Registration Act, 1860, bearing registration No.456 of 2015, represented by its member, Kurnool District, Andhra Pradesh, J Lakshmi Narasaiah son of J Chinna Narasinhulu, aged about 35 years, Occupation Social Worker, resident of Kurnool, Andhra Pradesh.

.....Petitioner

AND

1. The Union of India, Represented by Home Secretary, Ministry of Home Affairs, Government of India, New Delhi.
2. The Union of India, Represented by Secretary, Law and Justice, Government of India, New Delhi.
3. The High Court of Andhra Pradesh, Nelapadu, Amaravati, Represented by the Registrar General.
4. The State of Andhra Pradesh, Represented by its Principal Secretary, Department of Health, Medical and Family Welfare, Secretariat, Velagapudi, Guntur, District. Andhra Pradesh.

.....Respondents

Petition under Section 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed in the writ petition, the High Court may be pleased to issue any order, direction or Writ, one in the nature of Mandamus, to

- i. Direct the Respondent No.1 to implement its guidelines in true spirit in order to prevent Covid-19 pandemic from spreading further, by its own machinery and State machinery in coordination to function effectively
- ii. Direct the Respondent No.4 to strictly follow the guidelines issued by Respondent No.1 and their own guidelines by utilizing the State Machinery effectively in



order to prevent Covid-19 pandemic from spreading further

- iii. Direct the Respondent No.3 to strictly follow the guidelines issued by the Respondent No.1, 4, and the Honourable Apex Court in order to prevent Covid-19 pandemic from spreading further
- iv. Direct the Respondent No.4 to declare Respondent No.3 premises as a Red Zone/Containment Zone in order to prevent Covid-19 pandemic from spreading further
- v. Direct the Respondent No. 1 and 2 herein to cause an enquiry to be conducted by a central and neutral agency to enquire into the incidents leading to the untimely death of Late B. Rajasekhar, Registrar General (In-charge) of the Respondent No.3 herein on 24/6/2020, the death of an employee working as Assistant in the V.R. Section and about 30 more employees being tested positive of Covid-19
- vi. Direct the Respondent No.1 and 2 to consider imposing a strict curfew for at least 2 weeks by drafting paramilitary forces if need be and by providing necessary mobile medical teams and essential commodity delivery teams in order to prevent Covid-19 pandemic from spreading further and in the interest of all concerned;

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and upon hearing the arguments of SRI.K.ASHOK REDDY Advocate for the petitioner, Sri.N.Harinath, Assistant Solicitor General for Respondent Nos.1 & 2, Sri A. Satya Prasad, Senior Advocate representing Sri N. Ashwani Kumar, Standing Counsel for High Court of A.P., for Respondent No.3 and of learned Government Pleader for Medical & Health for Respondent No.4, the Court made the following.

ORDER:

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

AND

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION (PIL) No.168 OF 2020

ORDER: *(Per Hon'ble Sri Justice M. Satyanarayana Murthy)*

During pendency of this writ petition, some material is brought on record which is contained in a pen-drive. The conversation contained in pen-drive disclosed some material about designing a plot against The Hon'ble The Chief Justice of High Court of Andhra Pradesh and another sitting Judge of the Supreme Court. Unfortunately, today, it is an unpleasant or gloomy day in the history of High Court of Andhra Pradesh, because the High Court itself has to ward-off the brazen onslaught from the third parties to demean the prestige of the pristine judicial institution in the eye of litigant public. Though the petitioners made certain allegations in the petition and the respondents raised a specific contention that the writ petition was filed at the instance of a retired Judge of High Court, High Court of Andhra Pradesh at Hyderabad, the same cannot be decided at this stage, as the third party -Sri S. Ramakrishna filed I.A.No.8 of 2020 to implead himself as respondent/petitioner in the writ petition and produced a pen-drive containing a conversation between Sri S. Ramakrishna and third party i.e. the person who had conversation with Sri S. Ramakrishna. But, it is difficult to readily believe that it is the voice of Sri S. Ramakrishna and third party i.e. the person who had conversation with Sri S. Ramakrishna, at this stage.

The audio conversation contained in pen-drive is translated into English and it disclosed that there was a serious conspiracy against

The Hon'ble The Chief Justice of High Court of Andhra Pradesh by designing a plot and sent a petition by the person who had conversation with Sri S. Ramakrishna allegedly, but signed by one Hamsraj, Secretary of BC/SC/ST Association. The said person also insisted Sri S. Ramakrishna to collect material against another senior most sitting Judge of the Supreme Court so as to enable him to send petition against senior most Judge of Supreme Court to mar his future career. That is how the said person is designing a plot against the Judge of a Supreme Court. The specific sentences in the translated version are extracted hereunder:

"Justice V. Eswaraiah:.....You might have seen my letter Have you seen in newspapers?
 Ramakrishna: Yes sir.....
 Justice V. Eswaraiah: Not that one. Letter written by All India Backward Class Sangham. Letter on functioning of Chief Justice and judgments not supreme court directions.
 Ramakrishna: Yes sir seen. But you have no relation with that letter sir. Some Hamsraj like person has written that.
 Justice V. Eswaraiah: No no. I have written that letter. I am the founder President of the organization and he is Working President.....

 Justice V. Eswaraiah: Not Yours. Material on Ramana. Both of them are our enemies. We should strike one by one."

Since it is a plot designed against The Hon'ble The Chief Justice of High Court of Andhra Pradesh with malafide intention with the connivance of an undisclosed interest of different persons, unless authenticity or genuineness of the contents of the material in pen-drive is established, this Court cannot proceed against anyone and decide the petition before this Court, in view of the specific plea raised in Paragraph No.13 of the preliminary counter/preliminary objections.

The way as to how the conversation between two persons took place, would *prima facie* establish that there was a conspiracy against

The Hon'ble The Chief Justice of Andhra Pradesh and a senior most Judge of the Supreme Court, pernicious acts of the person who made such allegation has to be discouraged. Otherwise, the public may lose faith on the Courts, since in a democratic set-up, intrinsic and embedded faith in the adjudicatory system is of seminal and pivotal concern. It is the faith and faith alone that keeps the system alive. It provides oxygen constantly. Fragmentation of faith has the effect-potentiality to bring in a reasoned verdict from a temperate Judge but does not intend to and, rightly so, to guillotine much of time at the altar of reasons. Thus, it is clear as day that everyone involved in the system of dispensation of justice has to inspire the confidence of the common man in the effectiveness of the judicial system. Sustenance of faith has to be treated as spinal sans sympathy or indulgence. If someone considers the task to be Herculean, the same has to be performed with solemnity, for faith is the 'elan vital' of our system. (vide **Gayatri v. M. Girish**¹).

The conversation further discloses use of intemperate language against two senior most sitting Judges of the Supreme Court and it is a matter of serious concern. If, such conversation goes to the public, it will certainly crumbles the confidence of the public on Courts and system itself. In these circumstances, it is the duty of the highest Court to preserve public faith on the institution while rendering justice to every litigant in accordance with law.

When a serious allegation is made against The Hon'ble The Chief Justice sent a petition to the Hon'ble The President of India by one Hamsaraj and the present attempt being made against the Judges of the highest Court of the country, besmirching the entire

¹ 2016 (3) CLJ (SC) 89

judicial institution the truth or otherwise in such plot being prepared by a person who had conversation with the intervener – Sri S. Ramakrishna (whose petition is not yet allowed) is to be unearthed, since it is the duty of Court to unravel the truth in the judicial process. Otherwise, the system will collapse on one day or the other.

Sri Zeeshan Adnan Mahmood, learned counsel for the petitioner contended that, ordering enquiry is beyond the scope of writ petition. But, this contention cannot be accepted for the reason that, a plot is designed against The Hon'ble The Chief Justice of Andhra Pradesh, which seriously affects the credibility of the institution and that too, the third respondent raised a specific ground in Paragraph No.13 of the preliminary counter/preliminary objections as to the person who is behind filing the writ petition. In such case, taking into account the seriousness of the issue, this Court can order enquiry in the public interest to preserve faith on the institution.

The learned Advocate General did not raise any specific objection. However, Sri N. Harinath, learned Assistant Solicitor General contended that, this Court cannot order enquiry based on the material produced by the intervener/third party in a writ petition filed by the petitioner.

The material contained in the pen-drive directly erode public faith on the highest adjudicatory body in the State and to preserve such public faith, this Court can order appropriate enquiry to decide the authenticity/genuineness of the contents in the pen-drive i.e. conversation and the lurking interest of the third party behind the conversation. Hence, the objection raised by the learned counsel is hereby rejected.

In the judicial process, it is also the solemn duty of this Court to unravel the truth. For confirming the genuineness and authenticity of conversation, the only way to unravel the truth is to order necessary enquiry in the judicial process, since it is fundamental duty of the Court to ascertain the truth and do justice on the basis of truth. Truth should be the Guiding Star in the Entire Judicial Process. Truth is the foundation of justice. Dispensation of justice, based on truth, is an essential feature in the justice delivery system. People would have faith in Courts when truth alone triumphs. The justice based on truth would establish peace in the society.

In **Zahira Habibullah Sheikh v. State of Gujarat**², the Supreme Court observed that right from the inception of the judicial system it has been accepted that discovery, vindication and establishment of truth are the main purposes underlying existence of Courts of justice.

In Justice Krishna Iyer in **Jasraj Inder Singh v. Hemraj Multanchand**³ described truth and justice as under:

“...Truth, like song, is whole, and half-truth can be noise! Justice is truth, is beauty and the strategy of healing injustice is discovery of the whole truth and harmonising human relations. Law's finest hour is not in meditating on abstractions but in being the delivery agent of full fairness. This divagation is justified by the need to remind ourselves that the grammar of justice according to law is not little litigative solution of isolated problems but resolving the conflict in its wider bearings

In **Union Carbide Corporation v. Union of India**⁴, the Supreme Court described justice and truth to mean the same. The observations of the Supreme Court are as under:

² (2006) 3 SCC 374

³ (1977) 2 SCC 155

⁴ (1989) 3 SCC 38

"30. ...when one speaks of justice and truth, these words mean the same thing to all men whose judgment is uncommitted. Of Truth and Justice, Anatole France said: "Truth passes within herself a penetrating force unknown alike to error and falsehood. I say truth and you must understand my meaning. For the beautiful words Truth and Justice need not be defined in order to be understood in their true sense. They bear within them a shining beauty and a heavenly light. I firmly believe in the triumph of truth and justice. That is what upholds me in times of trial...."

In Mohanlal Shamji Soni v. Union of India⁵, the Supreme Court observed that the presiding officer of a Court should not simply sit as a mere umpire at a contest between two parties and declare at the end of the combat who has won and who has lost and that there is a legal duty of his own, independent of the parties, to take an active role in the proceedings in finding the truth and administering justice.

The principle in the above judgments was reiterated by the Supreme Court in other judgments viz., **Chandra Shashi v. Anil Kumar Verma⁶**, **A.S. Narayana Deekshitulu v. State of A.P⁷**, **Mohan Singh v. State of M.P⁸**.

Following the law declared by the Apex Court in catena of perspective pronouncements and applying those principles to the present facts of the case, it is appropriate to order necessary enquiry while making it clear that no opinion is expressed as to the voice of the persons, without expressing any opinion as to the authenticity of the conversation contained in the pen-drive and without recording any finding that it is the voice of third party i.e. the person who had conversation with Sri S. Ramakrishna or the interest of the third party behind the conversation.

⁵ 1991 Supp (1) SCC 271

⁶ (1995) 1 SCC 421

⁷ (1996) 9 SCC 548

⁸ (1999) 2 SCC 428

The Apex Court had an occasion to deal with similar situation **In Re: Matter of Great Public Importance touching upon the Independence of Judiciary – Mentioned by Shri Tushar Mehta, Solicitor General of India**⁹, ordered enquiry appointing Hon'ble Sri Justice A.K. Patnaik, retired Judge of the Supreme Court to hold an enquiry into the allegations made in the affidavit. This Court can also follow the same procedure to find out the authenticity and genuineness of the contents in the pen-drive to proceed further in the matter.

In view of the law discussed above in various judgments referred supra, this Court while exercising power of judicial review under Article 226 of the Constitution of India, more particularly, while deciding a public interest litigation, procedural technicalities will not come in the way. Hence, we find that it is a fit case to order enquiry to find out the authenticity/genuineness of the conversation contained in the pen-drive. Therefore, we request The Hon'ble Sri Justice R.V. Raveendran retired Judge of the Supreme Court of India to hold an enquiry to find out the authenticity/genuineness of the conversation, contained in the pen-drive, with regard to the plot designed against The Hon'ble The Chief Justice of Andhra Pradesh and being designed against senior most sitting Judges of the Supreme Court and undisclosed interest of third parties. Registry is directed to obtain the consent of Hon'ble Sri Justice R.V. Raveendran, Retired Judge of Supreme Court and provide necessary assistance. The enquiry is limited to find out the authenticity/genuineness of the conversation and third party interest behind the plot. However, this will not have any direct bearing on the issue involved in the main writ petition,

⁹ SMW (C) No.1 of 2019

except to the extent of deciding the allegation made in Paragraph No.13 of the preliminary counter/preliminary written objections, but will be taken into consideration in any other incidental proceedings. The Registry is directed to duplicate set of record and pen-drive, hand-over one copy to each of the department under proper acknowledgment and send one such copy to Hon'ble Sri Justice R.V. Raveendran, Retired Judge of Supreme Court of India by deputing responsible officer, after obtaining permission from Hon'ble The Chief Justice.

The Director of Central Bureau of Investigation (CBI) and the Director of Intelligence Bureau (IB) are directed to depute responsible officer(s) of the department to obtain/collect information from the agencies/service providers, pertaining to conversation contained in the pen-drive and other material collected from the Registry, submit to Hon'ble Sri Justice R.V. Raveendran, Retired Judge of Supreme Court of India as expeditiously as possible, not later than fifteen days from the date of receipt of copy of this order.

It is further directed to collect the material from the Registry deputing any responsible officer from the department(s). It is further directed to cooperate with Hon'ble Judge as and when their services are required at any point of time for the purpose of enquiry of the matter, especially required by the Hon'ble Judge. We leave it to the Hon'ble Judge to take the assistance of whosoever else His Lordship desires.

We request Hon'ble Sri Justice R.V. Raveendran, Retired Judge of Supreme Court of India, to submit a report to this Court on the basis of the enquiry as to the authenticity/genuineness of

conversation contained in pen-drive, the persons who had conversation and un-disclosed interest of third party/parties.

However, till completion of enquiry, if any discussion/debate is undertaken in the media, the aggrieved person may approach this Court and seek appropriate order.

List the matter after four weeks.

Sd/- R. Karthikeyan
ASSISTANT REGISTRAR
//TRUE COPY//
For ASSISTANT REGISTRAR

To,

1. The Home Secretary, Ministry of Home Affairs, Union of India, Government of India, New Delhi.
2. The Secretary, Law and Justice, Union of India, Government of India, New Delhi.
3. The Registrar General, High Court of Andhra Pradesh, Nelapadu, Amaravati.
4. The Principal Secretary, Department of Health, Medical and Family Welfare, State of Andhra Pradesh, Secretariat, Velagapudi, Guntur, District. Andhra Pradesh. (1 to 4 by RPAD)
5. Copy to Director General, Central Bureau of Investigation, Plot No.5-B, 6th floor, CGO Complex, Lodhi road, JN Stadium Marg, New Delhi-110003.
6. Copy to Director General, Intelligence Bureau, North Block, CGO Complex, Lodhi road, JN Stadium Marg, New Delhi-110003.
7. One CC to SRI.K.ASHOK REDDY Advocate [OPUC]
8. One CC to SRI.ZEESHAN ADNAN MAHMOOD Advocate [OPUC]
9. One CC to SRI.N.HARINATH, ASSISTANT SOLICITOR GENERAL [OPUC]
10. One CC to Sri N. Ashwani Kumar, Standing Counsel for High Court of A.P [OPUC]
11. Two CCs to THE ADVOCAGE GENERAL, High Court of A.P.(OUT)
12. Two CCs to THE MEDICAL & HEALTH, High Court of A.P.(OUT)
13. Two spare copies

Note: The appearance of Respondent No.3 is amended in the Order dated 13-08-2020 in WP (PIL) 168 of 2020 as Sri A. Satya Prasad, Senior Advocate representing Sri N. Ashwani Kumar, Standing Counsel for High Court of A.P., for Respondent No.3, instead of Ms. Jannu Prajwala, Advocate for Respondent No.3.

Sd/- R. Karthikeyan
ASSISTANT REGISTRAR

HIGH COURT

MSMJ & LKJ

DATED:13/08/2020

DATED: 21-08-2020

AMENDED ORDER

NOTE: LIST THE MATTER AFTER FOUR WEEKS

ORDER

WP(PIL).No.168 of 2020

DIRECTION

