
(1987) 11 AP CK 0027

In the Andhra Pradesh High Court

Case No : Writ Petition No. 12425 of 1987 & Writ Petition No. 12427 of 1987

Dhronamraju Satyanarayana

APPELLANT

Vs

N.T. Rama Rao and Others

RESPONDENT

Date of Decision : 02-11-1987

Acts Referred:

Constitution of India, 1950 — Article 133, 164(1), 226

Citation : AIR 1988 AP 144

Hon'ble Judges : K. Bhaskaran, C.J.; Syed Shah Mohammad Quadri, J.; Anjaneyulu, J

Bench : Full Bench

Advocate : K. Parasaran, Attorney General of India and S. Ramachandra Rao, Ramakrishna Reddy, M. Narasaiah and Varaprasad KRK, for the Appellant; A.G., K. Jagannadha Rao for Central Govt., M.P. Chandramouli, A. Palkhiwala and K. Srinivasa Murthy, for the Respondent

Judgement

K. Bhaskaran, C.J.—Article 164(1) of the Constitution lays down:

"The Chief Minister shall be appointed by the Governor and the other Ministers shall be appointed by the Governor on the advice of the Chief Minister, and the Ministers shall hold office during the pleasure of the Governor.

2. Whether the High Court in exercise of its high prerogative writ jurisdiction under Art. 226 of the Constitution would issue a writ of quo warranto or a writ by way of information in the nature of quo warranto declaring that the Chief Minister of the State, duly elected to the Legislative Assembly, appointed and sworn in by the Governor in Accordance with Cls. (1) and (3) of Art. 164 of the Constitution has forfeited his right to continue in office on the grounds raised and the allegations made in the affidavit is the important constitutional issue that arises for decision in this writ petition.

3. The submission made by Sri S. Ramachandra Rao, the learned counsel for the petitioner, was that the gravity of the charges levelled against the first respondent Chief Minister, Sri N. T. Rama Rao, was so serious as to shock the

conscience of the Court; this Court which was entitled to mould the relief in such manner as was most suited for furthering the ends of justice should not hesitate to declare that he (the Chief Minister) had forfeited his right to hold the office; and no technical plea, either of locus standi or of justiciability, should be allowed to stand in the way of a decision being rendered on the merits of the case. He also added that the charges levelled against the Chief Minister remained un rebutted in spite of his having filed a counter-affidavit.

4. Sri K. Parasaran, the learned Attorney General who appeared to assist the Court at our request, after having made an enlightening analysis of the constitutional scheme. expressed his opinion that normally Courts would not be justified in issuing a writ of quo warranto declaring that the Chief Minister had forfeited his right to continue in office unless it was alleged and proved that he had -incurred a disqualification as prescribed by the Constitution itself or any law made by the Parliament. To support his view. he referred us to the Full Bench decision of the Kerala High Court in K.C. Chandy Vs. R. Balakrishna Pillai, . which has been followed by the Division Bench of the Kerala High Court in Kallara Sukumaran Vs. Union of India (UOI) and Others, and a single Bench of the Madras High Court in Ramachandran Vs. M.G. Ramachandran, The Chief Minister of Tamil Nadu and Others, .

5. On behalf of the first respondent, Chief Minister, we have had the advantage of hearing the eminent counsel, Sri N.A. Palkhiyala. who substantially concurred with the views expressed by the learned Attorney General in regard to the legal and constitutional position to which reference has already been made in para. 4 (supra). It was also his contention that what we were concerned with here was purely a political interest litigation, not a public interest litigation; and that neither the petitioner had the locus standi to maintain the writ petition nor this Court had the jurisdiction to grant the relief sought. The learned Advocate General, who appeared for the second respondent the Government of Andhra Pradesh, had also taken the stand that the petition for the issue of quo warranto was not maintainable in law. On behalf of the three interveners, Sri K. Ramesh Krishna Reddy, Sri M. Narasiah and Sri K. R. K. Vara Prasad advanced the arguments.

6. We do not consider it necessary to decide the question of locus standi in this writ petition, in the nature of the decision we propose to take in the matter.

7. The disqualification for the Chief Minister to hold the office may exist at the threshold. for instance, on account of any of the disqualifications enumerated in Art. 191 of the Constitution or when the Governor had not administered to him oaths of office and secrecy before he entered upon his office as required under Cls. (1) and (3) of Art. 164 of the Constitution. He might incur disqualification later, for instance, on account of his not having been a member of the Legislature of the State for any period of six, consecutive months in terms of cl. (4) of Art. 164. and that might result in his forfeiting his right to continue in office. In this case, as far as we could see. the petitioner has not established that the first

respondent was usurper of office without title or right at the time when he assumed the office. If at all, therefore, the petitioner could only endeavour to establish that after having become the Chief Minister, he had forfeited his right to continue in office. In case the assumption or continuation in office is established to be in clear violation of the provisions of the Constitution or any law made by the Parliament, this Court would be justified in giving a declaration to that effect.

8. Ordinarily, the Governor allows or may have to tolerate, the continuation in office of the Chief Minister so long as he enjoys the confidence of the majority of the members of the Legislative Assembly unless, in the meanwhile, he suffered any specific disqualification for holding that office. This is so in keeping with the well-established democratic values and conventions. In spite of the fact that Art. 164(1) of the Constitution permits the Chief Minister to continue in office only during the pleasure of the Governor. The Governor might nevertheless face extraordinary situations where he would be constrained for promoting public good and for safeguarding the interests of the State to invoke the pleasure doctrine and terminate the tenure of office of the Chief Minister though such instances would be few and rare. There being many imponderables, the circumstances under which a Chief Minister or a Minister would render himself unfit to hold the office and is liable to be removed from the post could not be exhaustively enumerated in the Constitution. or for that matter, even in any law made by the Parliament. Presumably, it is for that reason the discretion in the matter is vested exclusively in a high dignitary like the Governor by the Constitution. No Governor could, however, afford to exercise that high prerogative in a casual manner without foreseeing the future, the political overtones of the momentous decision and the other repercussions. Often than not, it is a complex question not merely a legal issue; and the decision should reflect the worldly wisdom and statesmanship of the person who, by the Constitution is charged with the onerous responsibility in the matter.

9. Respect for the limits of functional division being the essence of democracy, the Courts would not, in exercise of the discretionary jurisdiction under Art. 226 of the Constitution encroach upon the sphere exclusively preserved for the Governor under the Constitution. The question is: Is there any authority for this Court to hold that the charges, if found true, would render the Chief Minister permanently disqualified? If this Court has no such power, in terms of the Constitution or any other law, it would be futile for us to pass an order which could be defeated by the Governor passing another order appointing him to the office again. So far as the Ministers, including the Chief Minister, are concerned, the appointing authority is the Governor. Under the Constitution, the power to terminate the tenure of office of the Ministers also is vested in the Governor, not in any other authority. To the growth and development of our modern jurisprudence, judicial activism has a vital role to play, but it has its limits and limitations also. If the Court assumes for itself limitlessness of jurisdiction, it might lead to a state of functional anarchy, which has to be avoided in the larger public interest itself

10. The learned counsel for the petitioner drew our attention to Part F of the affidavit (pp. 153 to 175) containing extracts from, various judgments of the Supreme Court and of this Court, and submitted that the observations and adverse comments therein amounted try severe strictures against the Chief Minister and his Government. In this context, he reminded us of the precedent of Sri N. Sanjeeva Reddy, the then Chief Minister of this State, having resigned in deference to the observations made by the Supreme Court for the technical reason that he had now,. specifically denied certain allegations in the affidavit of the petitioner vide paras. 19 and 20 of the decision in C.S. Rowjee and Others Vs. Andhra Pradesh State Road Transport Corporation, . He would submit that if this healthy precedent set by Sri Sanjeeva Reddy was any guideline, in this case, the Chief Minister ought to have felt the compulsion to resign not once, but several times; but he had stuck to his position without being sensitive to public opinion or any code of morality.

11. The learned counsel for the petitioner, in the course of his lengthy argument, frequently put to us the question whether the Chief Minister had not forfeited his right to continue in office at least from the Year 1985 after his confession that he had evaded Income Tax and wealth-tax to the tune of- colossal amounts. Reference was made to the declaration alleged to have been made by the Chief Minister. Sri Rama Rao, of an income of Rs.7,50,000 in his individual capacity and wealth to the tune of Rs.51.50 lakhs on behalf of his joint family with respect to which he had evaded tax. This declaration is stated to have been made when he was holding the office of Chief Minister. According to the learned counsel in the file relating to the Chief Minister, former Union Finance Minister had on 6-6- 1985 minuted that his (Sri Rama Rao's) was a case of clear evasion of tax. He forcefully contended that under S. 11, Voluntary Disclosure of Income and Wealth-tax Act. 1976. The Chief Minister might escape the pena 1 consequences, but that did not and should not mean that he did not forfeit his moral right to continue in the high office of the Chief Minister of the State, particularly in view of the fact that our people adored such dignitaries as idols of worship placing so much of confidence in their integrity and sense of fair play. He reiterated that the affidavit filed by him was conspicuous by the absence of any denial of the truth and correctness of the allegation made in the affidavit of the petitioner that he was guilty of the high crime of evasion of tax. According to him, going by the dictum laid down by the Supreme Court in the decision which led to the resignation of Sri N. Sanjeeva Reddy. it was legitimate for. the Court to draw an inference that the allegations in the affidavit with respect to the evasion of tax by the first respondent Chief Minister were true and correct. His question to us was whether the Chief Minister who was a self-proclaimed tax pleader would have the moral courage to enforce taxation laws in the State or to take action against the persons who evaded or defaulted the payment of tax.

12. We take it that the question put to us by the learned counsel for the petitioner is rather addressed to the Chief Minister himself than to us. Even accepting that healthy democratic traditions demand the resignation of the Chief

Minister not only when he forfeits the confidence of the majority of the members of the Legislative Assembly but also on his own accord when it is shown that he is guilty of moral turpitude, and was, therefore, unworthy of holding the exalted office, the call for action has to come from within, it is not a matter of compulsion from outside. The Chief Minister is accountable to the electorate who holds a watching brief to prevent misperformance and misrule by their elected representatives. It is true, the moral and ethical standards might differ from person to person. What might shock the conscience of one person might not cause even a stir in the mind of another. It is for the Chief Minister himself to make up his mind in regard to the path he should follow in the face of these allegations. No gratuitous advice, much less any specific direction, from this Court is necessary.

13. The other serious allegations to which our attention had been drawn include to mention a few :

(a) The Chief Minister was guilty of violating the provisions of Foreign Exchange Regulations Act by being instrumental in the Tirumala Tirupati Devasthanam, functioning under the control of the Government, sanctioning and disbursing Rs.60 lakhs to the temples situated abroad, by demand drafts on various banks without the sanction of the Reserve Bank of India and without following the procedure under the law.

(b) There was corruption in the purchase of 22 acres of land in Gaddiannaram, the land was bought for HUDA at a cost of Rs.15 lakhs per acre while the market value was only Rs.3 to 4 lakhs,

(c) He had acquired over 1.75 lakhs sq. yards of land in Hyderabad City worth about Rs.35 crores in the name of his various family members by manipulating exemptions from the Urban Land Ceiling Act. For the 1,800 sq. yards he obtained from the Government, he did not pay the price at Rs.40 per sq. yard as determined in 1976, but managed to get it reduced to Rs.20 per sq. yard after he became the Chief Minister.

(d) By his manipulations, Government issued notifications, purported to be under S.19-A, "A. P. Entertainment Tax Act, exempting from payment of entertainment tax in respect of large amounts relating to the cinema theatres owned by him and his family members.

(e) He has caused the master plan for the urban Development to be altered in respect of the land use of Ramakrishna Studio several times to promote the interests of his sons.

(f) In connection with the land acquisition compensation in Nirmal. Sri Chandrababu Naidu, the son-in-law of The Chief Minister and the General Secretary of the Telugu Desam Party was paid a bribe of Rs.3.5 lakhs as is clear from the letter of the TDP M.L.A.. Dr. Venugopala Chary, which was addressed to one Sarpanch who paid the bribe to the M.L.A., and who in his turn passed on

the bribe amount to the TDP General Secretary.

(g) That orders for the issuance of a letter of intent for making Cordless Telephones were given to his son-in-law, Sri Nareen of Coimbatore, in violation of norms anti procedures

(h) A Japanese Firm, Hitachi, had offered Rs.40 crores kickback to him.

We do not, however, propose to go into these and other allegations made in the writ petition.

14. We have no doubt in our mind that whatever be the merits of the allegations made, if and when found appropriate, the power to terminate the tenure of office of the Chief Minister being vested solely in the Governor under Art. 164(1) of the Constitution, no writ of quo warranto as prayed for would issue from this Court. In that view, the writ petition is dismissed, without any order as to costs.

15. We place on record our warm appreciation for the service rendered by all the Counsel who participated in the proceedings. Sri K. Parasaran, the learned Attorney General who, in deference to our request appeared to assist the Court, had practically sat through the whole proceedings unmindful of all the inconveniences. He was ably assisted by Sri Gopal Subrahmanyam. We have greatly profited also from the arguments of Sri N. A. Palkhiwala, the eminent jurist, who appeared for the first respondent, Chief Minister. The learned Advocate General also had put forward the case of the second respondent, the Government of Andhra Pradesh, forcefully. We are greatly impressed by the remarkable industry put in by Sri S. Ramachandra Rao, the learned counsel for the petitioner, in projecting the case of the petitioner.

16. Immediately after the judgment was pronounced, the learned counsel for the petitioner made an oral submission that leave to appeal to the Supreme Court might be granted. We have adverted to the relevant provisions of the Constitution. which are clear. We find no substantial question of general importance. which requires to be settled by the Supreme Court involved in this case; hence leave declined.

17. Petition dismissed.