

(2014) 04 SC CK 0045

In the Supreme Court Of India

Case No : C.A. Nos. 6489 and 6486-6487 of 2005

Dr. B. Madhusudhan Reddy

APPELLANT

Vs

Peela Pothinaidu and Others etc. etc.

RESPONDENT

Date of Decision : 02-04-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 340

Citation : 2014 (5) SCALE 133

Hon'ble Judges : Shiva Kirti Singh, J;R.M. Lodha, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. This appeal by special leave arises from the judgment of the Andhra Pradesh High Court disposing of three writ petitions praying for diverse relief's. The principal grievance raised in the writ petition was issuance of GO dated 22.6.2004 by reconstituting the Sri Justice B.K. Somasekhara Commission after withdrawing GO Ms. No. 544 dated 4.8.2001 and GO Ms. No. 553 dated 8.8.2001 under which the Government had formed opinion that the continued existence of the Commission was unnecessary and thereby the Government of Andhra Pradesh directed that the Commission of Inquiry shall be deemed to have ceased to exist with effect from the first day of December, 1999. In GO Ms. No. 58 dated 22.6.2004, it was directed that the Commission of Inquiry would be deemed to have continued with effect from 1.12.1999 and shall continue its inquiry from where it was stopped. The controversy relates to Yeleru irrigation scam.

2. On 19.10.2005, this Court granted leave. Thereafter orders have been passed from time to time. The last order dated 30.10.2013 reads as follows:

A counter-affidavit has been filed by the Government of Andhra Pradesh through its Principal Secretary, Irrigation & CAD Department. The affidavit states that disciplinary action was initiated against as many as 21 government employees besides one Sub-Judge, one Government Pleader and five judicial staff of whom

6 have been accorded punishment already. The present status of disciplinary action against government employees involved in Yeleru Scam and against whom the disciplinary action has not yet attained finality, are set-out as follows:

2. It is seen from the above that as against V. Sarma Rao, IAS (retired), formerly Commissioner, Social Welfare, the State has decided to impose a penalty of 50% cut in pension and gratuity. The proposal to this effect has been submitted to the central government way back on 21.5.2010 but the central government has not issued any order so far.

3. The Chief Secretary, Government of Andhra Pradesh shall send the reminder to the Government of India for expediting the order in respect of the above. We expect the Government of India to do the needful expeditiously.

4. As regards K. Sukhender Reddy, IAS, former J.S. to Government, I. & C.A.D. Department, it transpires that the matter is pending before the High Court of Andhra Pradesh in Writ Petition (C) No. 19111 of 2011. Since the matter is pending before the High Court for about 12 years, we request the High Court to expedite the hearing of writ petition (C) No. 19111 of 2001.

5. In respect of D. Parthasarathy, Formerly Assistant Secretary to Government, I. & C.A.D. Department, P. Viswswara Rao, formerly Section Officer, I. & C.A.D. Department and M. Subhan Khan, Assistant Section Officer, I. & C.A.D. Department, the annexure I appended to the affidavit states that with regard to them the report of the C.O.I. is awaited. The concerned C.O.I. is expected to conclude the inquiry expeditiously.

6. The disciplinary action against Anitha Rajendra, IAS, and B.R.S. Prasad, former Sr. Assistant, Revenue Department have been dropped as in the inquiry, the charges against them were not found to be proved.

7. The action against M. Leela, former Deputy Tahsildar, Revenue Department has also been dropped on the basis of report of C.C.L.A.

8. The criminal case against A. Krishna Rao, (Retd.), former Special Tahsildar, Revenue Department is closed as he was discharged from that case. So is the case of B. Ammajji Rao (Retd.), former Special Tahsildar, Revenue Department.

9. Further action against S. Chinnayya Chari, Former Tahsildar, Revenue Department has also been dropped as in the inquiry report, the charge was held to be not proved.

10. As regards P. Surya Rao and B. Chandrasekhar Rao, both former Sr. Assistant, Revenue Department, the charges against them have not been proved but no final decision has been taken by the government with regard to them. The state government should take a final call in respect of them without any delay.

11. As regards criminal cases, it appears that the District & Sessions Judge, Visakhapatnam filed 9 complaints in C.C. Nos. 74-82 of 2000 against 6 of the 15 persons identified by the C.I.D. and discharged the other 9 accused. Against the

order of discharge, C.I.D. preferred Criminal Appeal No. 1769 of 2000 before the High Court of Andhra Pradesh. The 6 accused have also filed separate criminal appeal being Criminal Appeal Nos. 1658 to 1665 of 2000. These criminal appeals are reported to be pending before the High Court of Andhra Pradesh. We request the High Court to hear and decide these criminal appeals at the earliest.

12. Some more criminal appeals arising from the complaints filed by the District & Sessions Judge, Visakhapatnam being Criminal Appeal Nos. 971 of 1999, 587 of 1999 and 907 of 1999 are pending before the High Court of Andhra Pradesh.

13. We request the High Court to hear and decide the above criminal appeals as expeditiously as may be possible and preferably within six months from the date of receipt of copy of this order as the appeals are already pending for about 14 years.

14. The District & Sessions Judge, Visakhapatnam shall expedite the inquiry in Crl. M.P. No. 130 of 1998 (which relates to O.P. No. 15 of 1990 on the file of Sub-Judge, Anakapalli) expeditiously.

15. As regards land acquisition matters, it is stated that 782 land acquisition appeals have been filed before the High Court of Andhra Pradesh. Of the 782 acquisition appeals, 121 appeals have been heard and judgment is reserved.

16. The counter-affidavit has been filed by the Government of Andhra Pradesh on 8.7.2013. It may be possible that by this time, the High Court has pronounced the judgment in the 121 land acquisition appeals. If the judgment in those appeals have not been pronounced, we expect that to be pronounced soon. As regards remaining appeals, we request the High Court to bear and decide them as expeditiously as may be possible.

17. Certain special leave petitions are pending before this Court, some at the instance of government and 4 at the instance of the claimants. The Registrar (J-II) of this Court will take appropriate directions from Hon'ble the Chief Justice and if these matters are ripe for hearing, the same may be posted for hearing as per the direction of Hon'ble the Chief Justice.

18. The fresh status report shall be filed by the Government of Andhra Pradesh on 15.1.2014.

3. In pursuance of the above direction, an affidavit has been filed by the Government of Andhra Pradesh giving the latest status of the action taken in various proceedings (criminal and civil) and also disciplinary proceedings against the government officials and the members/staff of the subordinate judiciary involved in the scam. In the affidavit filed on 10.1.2014, the State Government has asserted that no real culprit has been allowed to go scot free and those officers involved have been identified and action has been initiated against them. It is stated that disciplinary action has been initiated against 21 government employees besides one Sub-Judge, one Government Pleader and five judicial staff from among whom punishment has already been imposed on six officials

and the Judicial Officer has been dismissed from service.

4. In annexure-I, annexed with the affidavit, the stage of disciplinary action against government employees involved in Yeleru Scam has been mentioned which is as follows:

5. In annexure-II, the details have been given about the enquires u/s 340 Code of Criminal Procedure. In annexure-III, statement of pending land acquisition cases in Andhra Pradesh High Court has been given.

6. In the affidavit, the details of the land acquisition matters allowed by the Andhra Pradesh High Court, amounts which are due from the claimants and the details of the restitution petitions which are still pending on the file of the Sub-Court, Anakapalli, Visakhapatnam have been indicated. Details have also been given about various restitution petitions which have been allowed by the Andhra Pradesh High Court directing the claimants to re-deposit the amounts withdrawn by them with 12% interest from the date of receipt of the amounts till realization.

7. The claimants did not re-deposit the amounts and as such the Collector, Visakhapatnam directed the M.R.O., Anakapalli to recover the same under Revenue Recovery Act. In some matters, after execution petitions have been allowed, notices were issued to auction the properties but the same could not be carried further in view of the stay order passed by the High Court.

8. We have carefully considered the status report submitted by the Government of Andhra Pradesh. We are satisfied that the matter need not remain pending before this Court any more. Civil Appeal is, accordingly, disposed of. The State shall take all pending proceedings to their logical conclusion. No costs.

Civil Appeal Nos. 6486-6487 of 2005:

In view of order passed today in Civil Appeal No. 6489 of 2005, nothing remains to be decided in these appeals. Civil Appeal are disposed of. No costs.