
(1997) 09 AP CK 0102

In the Andhra Pradesh High Court

Case No : Writ Petition No. 20139 of 1996

Dr. M.V. Ramana Reddy

APPELLANT

Vs

Election Commission of India and Others

RESPONDENT

Date of Decision : 16-09-1997

Acts Referred:

Representation of the People Act, 1951 — Section 8(3)

Citation : (1998) 1 ALT 95

Hon'ble Judges : T. Ranga Rao, J;B. Subhashan Reddy, J

Bench : Division Bench

Advocate : V.V.S. Rao and T. Pradyumna Kumar Reddy, for the Appellant; C.P. Sarathy, for Respondent Nos. 1 and 3 and Govt. Pleader for Home, for the Respondent

Final Decision : Allowed

Judgement

B. Subhashan Reddy, J.—This writ petition was filed questioning the action of the 3rd respondent in not declaring that the petitioner is no more disqualified to contest in the elections as 6 years had elapsed from the date of conviction.

2. The petitioner was Accused No. I in Sessions Case No. 120 of 1975 on the file of the Court of the Sessions Judge, Cuddapah and he was convicted for the offence punishable u/s 302 IPC and was sentenced to undergo life imprisonment. On appeal being preferred in Crl. Appeal No. 812 of 1976 to this Court, this Court by Judgment dated 13-2-1978 has acquitted the petitioner. The State had preferred appeal to the Supreme Court and pursuant to the order of the Supreme Court, the petitioner was rearrested on 19-1-1979. Then the petitioner had moved the Apex Court for bail and on 13-3-1979 he was released on bail. The petitioner had undergone jail imprisonment. The Supreme Court had partly allowed Crl. Appeal No. 7 of 1979 filed by the petitioner by Judgment dated 14-8-1991 and again the petitioner was arrested on 12-12-1991. Ever since 4-6-1992 the petitioner had been making representations that in view of the remissions he was entitled to be released; but, it was rejected by the

Government, which prompted the petitioner to file Writ Petition No. 19138 of 1993 and by Judgment dated 16-4-1994 it was held that as the petitioner had undergone jail sentence of 5 years, he is eligible to be released under Clause (b) of G.O.Ms. No. 580, dated 20-10-1984. Against the said order, though Writ Appeal was filed initially, but later on it was withdrawn. As such, the judgment dated 16-4-1994 passed in W.P. No. 19138 of 1993 declaring that the petitioner had undergone 5 years jail sentence had become final. Now, the lis is between the petitioner and the 1st respondent-Election Commission and also the 3rd respondent i.e., Chief Electoral and Ex-Officio Chief Secretary, Government of Andhra Pradesh, Hyderabad. The petitioner is a politician and was a Member of the Legislative Assembly for one period. He was contemplating to contest in the elections again and for that purpose filed a representation seeking declaration that the disqualification attached to the conviction has ceased in view of the remission G.O., but that was rejected reckoning time of 6 years from the date of actual release i.e., 16-4-1994.

3. Mr. C. Padmanabha Reddy, the learned senior Counsel appearing for the petitioner, submits that the petitioner is deemed to have been released on 20-10-1984 because of the remission G.O. and relies on the decision of the Supreme Court in Maru Ram and Others Vs. Union of India (UOI) and Others, particularly para 57 thereof, which says that the remission benefit has to be construed reckoning the date of conviction even if the date of judgment of the appellate Court is later in time and the later judgment of the appellate Court has to date back to the original date of judgment of the trial Court, which had awarded the sentence against the petitioner. This judgment was delivered by a Constitution Bench; as such, operates as a stare decisis.

4. Mr. C.P. Sarathy, the learned senior Counsel appearing for the respondents 1 and 3, has referred to 2 judgments rendered in Sarat Chandra Rabha and Others Vs. Khagendranath Nath and Others, and In re. Secretary to the Home Department, Government of A.P., Hyderabad, ILR (1956) Hyd. 577. These 2 judgments are not having any bearing to the facts of this case. We need not go into the plea of Mr. C.P. Sarathy against deeming release of the petitioner in the year 1984 when the final remission G.O. was issued. Remission is by virtue of a Constitutional provision, while the Representation of the People Act operates in an entirely different field with regard to representatives to be chosen by the people and the process thereof. Section 8(3) of the Representation of the People Act, which is relevant for the purpose of adjudication of this case, reads as follows;-

"A person convicted of any offence and sentenced to imprisonment for not less than 2 years other than any offence referred to in Sub-section(I) or Sub-section (2) shall be disqualified from the date of such conviction and shall continue to be disqualified for a further period of 6 years since his release."

5. The words "such conviction" and again "release" will always relate to original adjudication as laid down by the Supreme Court in Manu Ram v. Union of India

(1 supra) and even if the word "release" is to be construed from the date of attainment of finality of the judgment, in the instant case, the judgment had attained finality on 14-8-1991 when the Supreme Court had rendered the judgment and by that time, the petitioner had undergone jail sentence for 5 years as declared by this Court in W.P.No. 19138 of 1993, which had become final. As such, the said date 14-8-1991 is deemed to be the date of legal release and not the delayed release by the Government later in the year 1994. By no stretch of imagination, the word "release" can be stretched beyond the date of attainment of finality to the judgment. As the judgment with regard to conviction had attained finality by virtue of the Judgment dated 14-8-1991 in CrI. A.No. 7 of 1979 on the file of the Supreme Court of India, we hold that the disqualification of 6 years runs from the said date, i.e., 14-8-1991. As such, the disqualification ended on 14-8-1997. It is needless to mention that from the Golden Jubilee year of Independence day, i.e., 15-8-1997, the petitioner is a free citizen to contest in the elections, unless he is disqualified on any other ground.

6. The writ petition is allowed to the extent indicated above. No costs.