

(2013) 06 AP CK 0073

In the Andhra Pradesh High Court

Case No : Criminal Revision Case No. 1026 of 2013

Kona Suguna Sivani

APPELLANT

Vs

The State of Andhra Pradesh

RESPONDENT

Date of Decision : 19-06-2013

Acts Referred:

Prevention of Corruption Act, 1988 — Section 2(c)

Citation : (2013) 2 ALD(Cri) 377

Hon'ble Judges : K.G. Shankar, J

Bench : Single Bench

Advocate : G.V.S. Kishore Kumar, for the Appellant; M.B. Thimma Reddy, Special Public Prosecutor for ACB., for the Respondent

Judgement

K.G. Shankar, J.—Question before this Court is whether the petitioner is a public servant within the meaning of the Prevention of Corruption Act, 1988 or not. The petitioner moved Special Judge for SPE and ACB Cases, Visakhapatnam, through Crl.MP. No. 380 of 2012 for discharge on the ground that she is not a public servant. The learned Special Judge dismissed the application through orders dated 28.02.2013. Assailing the same, the present revision is laid. Section 2(c) of the Prevention of Corruption Act defines a public servant. Learned counsel for the petitioner contended that it is appropriate for the Andhra Pradesh Administrative Tribunal to decide whether one is a public servant or not. He placed reliance upon N. Ravindra Murthy Vs. Shri Veerabhadra Swamy Temple and Others, where the question regarding the position of an Executive Officer in a temple vis-?-vis his position as a public servant within the meaning of Section 2(c) of Prevention of Corruption Act came up for consideration. In that case, the full bench of this Court held that an executive officer of a Hindu Religious Institute is not a public servant. On the basis of this decision, the learned counsel for the petitioner contended that the petitioner is not a public servant and that therefore the very prosecution of the petitioner is misconceived.

2. Learned Standing Counsel for the ACB on the other hand submitted that the

petitioner was selected as an Executive Officer Grade-I by Andhra Pradesh Public Service Commission (APPSC, for short) and was allotted to Endowments Department so much so the petitioner shall be considered as a public servant. He also submitted that sanction was accorded to prosecute the petitioner and submitted that sanction by the government would not have been given but for the fact that the petitioner is a public servant. Learned Standing Counsel distinguished the full bench decision pointing out that if a Trust Board Hindu Religious Institution appoints an employee under the provisions of A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 and if the salary of such an employee is paid from the trust funds, the employee would be out of the purview of Section 2(c) of the Prevention of Corruption Act, and not otherwise. He pointed out that the learned trial Judge considered the decision of the full bench and concluded that the decision of the full bench has no application to the facts of the case.

3. I am in agreement with the view expressed by the learned trial Judge as to the conditions to be fulfilled before the petitioner who is Executive Officer Grade I of Sri Satyanarayana Swamy Temple, Isukakonda, Visakhapatnam is excluded from the preview of Prevention of Corruption Act, viz., that he must have been appointed by the trust board and that his salary must have been paid from out of the temple funds. Both these circumstances do not exist in the present case. The petitioner was selected by APPSC and has been working as an Executive Officer Grade I. The government entrusted office of the Executive Officer of Sri Satyanarayana Swamy temple to him by way of deputation. His salary has not been paid from out of the temple funds. Mere deputation of the petitioner does not take away the petitioner from the purview of the definition of the public servant u/s 2(c) of the Prevention of Corruption Act. I therefore consider that the petitioner is a public servant within the meaning of the Prevention of Corruption Act. Consequently the prosecution of the petitioner is justified and the order of the trial Court declining to discharge the petitioner is sustainable. I therefore see no merits in this revision. This revision is accordingly dismissed. Miscellaneous petitions, if any pending in this revision, shall stand closed.