
(1998) 09 AP CK 0071

In the Andhra Pradesh High Court

Case No : Writ Petition No. 17531 of 1995

M. Girish Reddy

APPELLANT

Vs

Lokayukta of A.P. and Others

RESPONDENT

Date of Decision : 24-09-1998

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1998) 6 ALD 257 : (1998) 5 ALT 743

Hon'ble Judges : Y.V. Narayana, J; Motilal B. Naik, J

Bench : Division Bench

Advocate : Mr. L. Prabhakar Reddy, for the Appellant; Mr. M.V.S. Suresh Kumar and Mr. D. Linga Rao, for the Respondent

Judgement

MOTILAL B. NAIK, J

1. This writ petition is filed praying for issuance of a Writ of Certiorari calling for the records pertaining to complaint No. 101 of 1995 on the file of the first respondent and to set aside the order dated 4-7-1995 passed therein as illegal, void and contrary to Rule 5(6) of Andhra Pradesh Lokayukta and Upa-Lokayukta Investigation Rules, 1984 and consequently a direction is sought to the first respondent to proceed with the enquiry/investigation into the said complaint No.101 of 1995 against respondents 2 to 5 herein.

2. Petitioner M. Girish Reddy, claiming himself to be a public spirited man has made a complaint against respondents 2 to 5 before the first respondent under the provisions of Andhra Pradesh Lokayukta and Upa-Lokayukta Act, 1983 (for short "the Act") alleging that respondents 2 to 5 are misusing the public funds earmarked for the actual beneficiaries. According to the petitioner in Medak District Scheduled Caste Society Services Limited, as against 8 non-muster roll workers at Gajwcl, the respondents 2 to 5 have submitted bills showing 30 employees in various different categories i.e., Junior Assistants, Junior Engineers and Watchmen under fictitious names and siphoned off the funds. Petitioner further alleged that funds allotted for sinking bore-wells and community well are

also swallowed by the respondents to a tune of Rs.20 lakhs, which fact has also been published in Andhra Bhoomi - a telugu daily newspaper on 3-7-1994. Petitioner states that on the basis of the said report, he made a complaint enclosing necessary and relevant documents before the first respondent which was numbered as Complaint No. 101 of 1995 and he was informed by the office of the first respondent in Form No.V that he would be intimated regarding the action taken on the said complaint.

3. Petitioner alleges that the" first respondent without giving any opportunity to the petitioner to justify his allegations, relying upon the reports of the authorities, has dismissed the complaint of the petitioner on 4-7-1995 without following the procedure contemplated under the Andhra Pradesh Lokayukta and Upa-Lokayukta Investigation Rules, 1984 and therefore, he is before this Court seeking a Writ of Certiorari as indicated above.

4. On behalf of the petitioner, Sri L. Prabhakar Reddy, learned Counsel has contended that in terms of Section 10 of the A.P. Lokayukta and Upa-Lokayukta Act, 1983 read with Rule 5(3) of the A.P. Lokayukta and Upa-Lokayukta Investigation Rules, 1984 (for short "the Rules") the Lokayukta or the Upa-Lokayukta before proceeding to the make further enquiry into a complaint, is required to give notice to the complaint in Form-VI and hear the complainant before passing an order. Counsel complains that in this case, the first respondent without following the said procedure and without giving any opportunity to the petitioner has dismissed the complaint No. 101 of 1995 on 4-7-1995, which according to the Counsel is unsustainable and as such the said order which is impugned in this writ petition is liable to be set aside.

5. On belief of the first respondent, Sri M.V.S. Sitresh Kumar, learned Counsel has filed a counter justifying the impugned order passed by the first respondent. Learned Counsel submitted that the first respondent acting upon the complaint filed by the petitioner has called for the report of Superintending Engineer and the Executive Engineer and also the report of the District Collector, Medak. The above authorities in their reports have categorically stated that it no work was carried out in Gajwel sub-division departmentally engaging workers on NMR basis. It is further disclosed in their reports that no person was engaged in NMR basis and certain staff members of the Scheduled Caste Society were asked by the sub-division office to supervise the work. Learned Counsel further stated that regarding the misuse of funds allocated for digging of bore-wells as alleged by the petitioner, the reports of the authorities indicated that the amount was paid through A/c payee cheques to the beneficiaries and there was no misuse. Learned Counsel, therefore states that on the basis of the above reports, the first respondent was satisfied that there are no merits in the .allegations levelled by the petitioner against respondents 2 to 5 and accordingly dismissed the said complaint. Counsel farther submits that there is no substance in the allegation that the first respondent has violated the procedure contemplated under the Rules, 1984 and pleads for dismissal of this writ petition.

6. Since the action of the first respondent dated 4-7-1995 is assailed in this writ petition, this Court did not insist respondents 2 to 5 for filing their counters.

7. Petitioners who claims to be a public-spirited person has approached this Court under Article 226 of the Constitution of India alleging that the first respondent has failed to follow the procedure contemplated under the Act and the Rules, 1984 and without affording any opportunity to the petitioner to substantiate his allegations against respondents 2 to 5 has rejected the complaint No.101 of 1995 by an order dated 4-7-1995.

8. Under the Andhra Pradesh Lokayukta and Upa-Lokayukta Act, 1983 various provisions are contemplated to deal with the complaints filed by individuals. Andhra Pradesh Lokayukta and Upa-Lokayukta Investigation Rules, 1984 are also framed regarding the procedure to be followed for disposal of such complaints.

9. Section 10 of the Act lays down the procedure to be followed in respect of investigation of a complaint. Sub-section (4) of Section 10 of the Act provides thus:

"The Lokayukta or Upa-Lokayukta may, in his discretion, refuse to investigate or discontinue the investigation of any complaint involving any allegation, if in his opinion,--

(a) the complaint is frivolous or vexatious, or is not made in good faith; or

(b) there are no sufficient grounds for investigation or, as the case may be, for continuing the investigation; or

(c) other remedies are available to the complainant and in the circumstances of the case it would be more proper for the complainant to avail of such remedies."

10. Rule 5 of the AP Lokayukta and Upa-Lokayukta (Investigation) Rules, 1984 provides for a preliminary verification and investigation of a complaint after its registration. Sub-rule (1) of Rule 5 provides as under:

"(1) After the registration of the complaint, the Lokayukta or Upa-Lokayukta, as the case may be, shall inform the complainant in Form V and may make such preliminary verification as he deems fit in regard to the allegation in the complaint and the action complained of on the basis of the information furnished through the complaint and the affidavits, documents and copies thereof, if any, enclosed to the complaint and also on his own motion before he proposes to conduct any investigation."

Sub-rule (3) of Rule 5 of the Rules provides as under:

"The Lokayukta or Upa-Lokayukta may (if felt necessary) hear the complaint after giving him notice in Form VI before passing an order refusing to investigate his complaint at the state of preliminary investigation".

Sub-rule (6) of Rule 5 of the Rules lays down as under:

"After consideration of the remarks, information and/or reports referred to in sub-rules (4) and (5) and after hearing the complainant if and when available and necessary and also the officers of the Section, the Lokayukta or Upa-Lokayukta, as the case may be, shall decide whether or not there are any sufficient grounds for ordering investigation, and if he finds that there are no sufficient grounds for conducting investigation, he shall pass an order rejecting the complaint."

11. A combined reading of subsection (4) of Section (10) of the Act and sub-rule (3) of Rule 5 of the Rules it is clear that the Lokayukta or the Upa-Lokayukta may in his discretion refuse to investigate or discontinue the investigation involving any allegation if he is of the view that the complaint is frivolous or vexatious or is not made in good faith. A further reading of sub-rule (3) of Rule (5) of the Rules make it clear that the Lokayukta or Upa-Lokayukta has been further vested with a discretion to hear the complainant after giving him notice in Form-VI before passing an order refusing to investigate his complaint at the stage of preliminary verification.

12. Learned Counsel appearing on behalf of the petitioner has contended that when once Form-V notice is issued to the petitioner from the office of the first respondent, the first respondent ought to have given an opportunity to the petitioner for placing all the relevant material to substantiate his allegations against respondents 2 to 5 and the petitioner should have been heard. Counsel further contends that as the petitioner was not heard as provided under sub-rule (6) of Rule 5 of the Rules, 1984, the impugned order dated 4-7-1995 passing without hearing the petitioner is unsustainable and the same is liable to be set aside.

13. We are not inclined to accept the above contention of the learned Counsel, A careful perusal of the impugned order dated 4-7-1995 falsifies the contention advanced on behalf of the petitioner. In the impugned order, the first respondent has indicated that he called for the reports of Superintending Engineer, Executive Engineer and of the Collector who was also the Vice-Chairman and the Managing Director of A.P. Scheduled Castes Co-operative Finance Corporation Limited. In the said reports, the authorities indicated that the allegations made by the petitioner were false. It is further indicated that no works were carried out in Gajwel subdivision departmentally engaging workers on NMR basis. The Department has not engaged any NMR workers for doing departmental works in Gajwel sub-division. Regarding the allegation of the petitioner that funds were misused for digging of bore-wells and CI wells, it is indicated in the report of the officials that no bore-well was dug in the Social Welfare sub-division at Gajwel. Only CI wells for irrigation purpose were dug and the payments were made through A/c payee cheques. The impugned order further indicates that the report sought from the Collector shows that a detailed enquiry has been conducted and the two allegations made by the petitioner were found baseless. The first respondent, on the basis of the reports furnished by the authorities, as indicated above has come to the conclusion that the allegations made by the petitioner are

totally false and baseless and dismissed the complaint through the impugned order. As the first respondent was satisfied with the reports sent by the various authorities concerned that there were no merits in the allegations levelled against respondents 2 to 5 by the petitioner, he rightly, in our opinion dismissed the complaint. We are inclined to hold, on a reading of the provisions contemplated u/s 10 of the Act in conjunction with Rule 5 sub-rule (3) of the Rules, that the first respondent is vested with the discretion to pass an order if the allegations levelled in the complaint are baseless and ill-founded, even without hearing the complainant also. Thus, we do not see any reasons to set aside the impugned order.

14. When the orders of quasi-judicial authorities or the authorities such as Lokayukta or Upa-Lokayukta are questioned invoking the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India, unless this Court finds that the orders passed by such quasi-judicial authorities are perverse, glaringly illegal or without jurisdiction and smacks of arbitrariness, this Court would not interfere with such orders. In the impugned order, on a careful examination, we are unable to find any traces of the above elements. The first respondent having found that the complaint made against respondents 2 to 5 by the petitioner is false and baseless, has dismissed the said complaint. However, the first respondent has come to the said conclusion only after carefully examining the reports of the concerned officials including the District Collector, Medak.

15. Legislature has conferred discretion on Lokayukta and Upa-Lokayukta to reject/ dismiss any complaints if they are frivolous, vexatious and baseless. One should trust and repose confidence on the high office of the Lokayukta/ Upa-Lokayukta as long as they discharge their duties within the ambit of the Act. Simply because the petitioner was not given an opportunity of being heard, we do not think, the petitioner is justified in approaching this Court. As the complaint of the petitioner has been ill founded, it has rightly been dismissed on the basis of reports submitted by the concerned. When the action of an authority is within his discretion, such discretionary order is not amenable for a review by this Court under Article 226 of the Constitution of India, unless such an order is so perverse that no prudent person would accept it. The system by itself may not provide remedy for all defects. It only provides checks and balances to control corruption at high places. As indicated above, unless the order passed by these authorities smacks of glaring infirmity or irregularity, this Court does not step in to correct the situation.

16. Having regard to the above discussion, we are not inclined to hold that the petitioner is entitled for the relief as prayed for.

17. In the result, the writ petition is dismissed, but without costs.