

(2007) 08 KAR CK 0008
In the Karnataka High Court
Case No : Writ Petition No. 15458 of 2005

M.N. Umashankar

APPELLANT

Vs

The Commissioner, Mysore Mahanagara Palike and Another

RESPONDENT

Date of Decision : 29-08-2007

Acts Referred:

Citation : (2007) ILR (Kar) 3810 : (2008) 1 KarLJ 158 : (2007) 4 KCCR 2275

Hon'ble Judges : D.V. Shylendra Kumar, J

Bench : Single Bench

Advocate : L. Srinivasa Babu, for the Appellant; H.C. Shivaramu, for R1 and Giriji and Gowtham Dev. C. Ullah, for R2, for the Respondent

Final Decision : Dismissed

Judgement

D.V. Shylendra Kumar, J.—Writ petition by an employee of the respondent No. 1 - Mysore Mahanagara Palike who it appears had been prosecuted before the competent court under the provisions of the Prevention of Corruption Act and had been convicted to undergo simple imprisonment for one year.

2. It appears the petitioner has preferred an appeal against the order of conviction and the said appeal is now pending before this Court in Criminal Appeal No.571 of 2005. The sentence is suspended by this Court but the petitioner has been directed to pay the alternative of paying fine of Rs. 10,000/-.

3. While the matter stood thus, it appears the Lokayukta at whose instance the petitioner had been prosecuted in the criminal side had called upon the respondent No. 1 - Palike to take consequential action on the petitioner on the departmental side.

4. It is at this stage, the writ petitioner has approached this Court contending, inter alia, that the Lokayukta has no jurisdiction to issue such directions; that when the petitioner's appeal is pending before this court, there is no occasion for the employer to get active on the departmental side etc., on the very charges.

5. Submission of Sri. L. Srinivasa Babu, learned Counsel for the petitioner is that the Lokayukta in fact has gone beyond its jurisdiction by addressing a communication to the respondent-employer directing the employer to pass orders dismissing the petitioner from service and to forward a copy of the order for having taken such action; that the petitioner, in fact, when had made efforts to secure a copy of the communication issued by the Lokayukta, it has not even been furnished to the petitioner and such action cannot be taken behind the back of the petitioner even without furnishing the copy of the communication from the office of the Lokayukta; that the Lokayukta cannot issue directions to the employer to pass positive order of dismissal etc.,.

6. Sri. H.C. Shivaramu, Learned Counsel for respondent No. 1 and Sri. Gowtham Dev C Ullal, learned Counsel for respondent No.2 submit that the writ petition is without any merit and is liable to be dismissed.

7. Lokayukta acts as an investigating agency and is virtually an ombudsman in respect of conduct of the employees of the State Government and in respect of employees of the public sector undertakings. It is only an agency in the nature of a watchdog on the conduct of the public servants. Ultimately, if any action is to be taken, it is in accordance with the procedure prescribed by law. If the petitioner is convicted by a competent court and if that conviction could result in any consequential action by the employer, it is open to the employer to take such action. Mere fact that the Lokayukta might have addressed some letters by itself neither can prevent the employer from taking necessary consequential action nor is it necessary for this Court to restrain the employer from taking such action as is warranted in the circumstances. Pendency of the criminal appeal before this Court against the Judgment of the criminal court convicting the petitioner by itself does not absolve the petitioner nor can it prevent the employer from taking such consequential action as is warranted as it is in the discretion of the employer to take such action in accordance with the service conditions governing the appointment of the petitioner. It is not necessary for this Court to interfere in a matter of this nature.

8. It is open to the petitioner to work out his rights and remedies as and when he should suffer any adverse order in the hands of the employer.

9. Writ petition is without any merit and is hereby dismissed.