

(2016) 06 AP CK 0024

In the Andhra Pradesh High Court

Case No : Writ Petition No.17633 of 2016

The State of Telangana

APPELLANT

Vs

Sri Mothiram

RESPONDENT

Date of Decision : 09-06-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2016) 5 ALT 543 : (2017) 1 AndhLD 68 : (2016) LIC 3699

Hon'ble Judges : Sri C.V. Nagarjuna Reddy and Sri Justice G. Shyam Prasad, JJ.

Bench : Division Bench

Advocate : G.P. for Services (TS), for the Petitioners; Sri V. Ramesh for Sri R.V. Mallikarjuna Rao, Counsels, for the Respondent No.1

Final Decision : Dismissed

Judgement

Sri C.V. Nagarjuna Reddy, J.—This Writ Petition is filed for issue of a Certiorari to quash Order, dated 20-12-2012, in OA.No.6762 of 2012 on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad (for short "the Tribunal").

2. The brief facts leading to filing of this Writ Petition are that, respondent No.1 was selected as stipendiary constable. When he has applied for the said post, no criminal case was pending against him. However, as his ill luck would have it, he was one among about 30 persons against whom a Criminal Case was registered for the offences under Sections 147, 148, 448, 427, 326 read with 149 IPC. After he was provisionally selected, he was asked to send an attestation form, which contained the column wherein he shall disclose his involvement in Criminal Cases, if any. Respondent No.1 has evidently not filled in that column as a result of which he did not disclose pendency of the Criminal Case. However, thereafter, he was acquitted of the Criminal Case by Order, dated 29-02-2012, of respondent No.2. But, the provisional selection of respondent No.1 was cancelled on the ground that he has suppressed the fact of his involvement in the Criminal Case. Feeling aggrieved by the said order, respondent No.1 has filed the above-

mentioned OA, which was allowed by the Tribunal, by its Order, dated 20-12-2012.

3. At the outset, we need to observe that the Writ Petition suffers from unexplained laches. The only explanation that was offered in Paragraph 7 of the Writ Petition is that immediately after receipt of the order of the Tribunal, respondent No.2 has addressed letter, dated 03-04-2013, to the Government Pleader for Services (Andhra Pradesh) for opinion, but, no reply was received and subsequently, due to division of the State and other reasons, the Writ Petition could not be filed immediately. In our opinion, this explanation is wholly unconvincing and unacceptable. The division of the State has taken place with effect from 02.06.2014 and if the Government Pleader for Services had not responded for one and half years prior to the division, the petitioners were not expected to remain quiet. Even after the division has taken place with effect from 02-06-2014, the petitioners failed to approach this Court for nearly two years, for which no explanation whatsoever is offered. Therefore, the Writ Petition is liable to be dismissed on the ground of laches alone.

4. Even on merits, we are of the opinion that the jurisdiction of this Court in Writ Petitions arising out of the orders passed by the Tribunals being supervisory and not appellate, we would not interfere with such orders unless they suffer from patent illegality or the reasons given in support thereof are per se perverse.

5. The Tribunal has taken note of the judgments of the Supreme Court in *T. Vasudevan Nair v. Director of V.S.S.C.*, 1998 Suppl. SCC 795, *Commissioner of Police and others v. Sandeep Kumar*, (2011) 4 SCC 644 and *A. Sagar v. State Level Recruitment Board*, 2003 (1) ALD 380, in concluding that the omission of respondent No.1 to fill the column relating to his involvement in a Criminal Case not involving serious offences and filed on account of village rivalry cannot be viewed seriously. In this context, it is apt to refer to the judgment of the Supreme Court in *Commissioner of Police and others v. Sandeep Kumar* (2 supra), which was profitably extracted by the Tribunal as under:

"8. We respectfully agree with the Delhi High Court that the cancellation of his candidature was illegal, but we wish to give our own opinion in the matter. When the incident happened the respondent must have been about 20 years of age. At that age young people often commit indiscretions, and such indiscretions can often be condoned. After all, you will be youth. They are not expected to behave in as mature a manner as older people. Hence, our approach should be to condone minor indiscretions made by young people rather than to brand them as criminals for the rest of their lives.

9. In this connection, we may refer to the character "Jean Valjean" in Victor Hugo's novel *Les Misérables*, in which for committing a minor offence of stealing a loaf of bread for his hungry family Jean Valjean was branded as a thief for his whole life. The modern approach should be to reform a person instead of branding him as a criminal all his life.

10?..

11. As already observed above, youth often commits indiscretions, which are often condoned.

12. It is true that in the application form the respondent did not mention that he was involved in a criminal case under Sections 325/34 IPC. Probably he did not mention this out of fear that if he did so he would automatically be disqualified. At any rate, it was not such a serious offence like murder, dacoity or rape, and hence a more lenient view should be taken in the matter."

(emphasis added)

6. We have considered the nature of the offences with which respondent No.1 was charged i.e., Section 147 IPC (Punishment for rioting), Section 148 IPC (Rioting, armed with deadly weapon), Section 448 IPC (Punishment for house trespass), Section 427 IPC (Mischief causing damage to the amount of fifty rupees) and Section 326 IPC (Voluntarily causing grievous hurt by dangerous weapons or means). Except Section 326 IPC, all the other Offences are bailable offences for which maximum punishment does not exceed three years and they are not of such nature as described by the Supreme Court in Commissioner of Police and others v. Sandeep Kumar (supra). At any rate, the Criminal Court has acquitted respondent No.1, even before the impugned order was passed. The Tribunal, having considered the totality of the facts and circumstances of the case, has set aside the order of petitioner No.2. In exercise of our power of judicial review and in the light of the reasons stated by us herein before, we are not inclined to interfere with such an order.

7. For the above mentioned reasons, the Writ Petition is dismissed.

8. As a sequel to dismissal of the Writ Petition, WP MP.No.21663 of 2016, filed by the petitioner for interim relief, is disposed of as infructuous.