

IN THE HIGH COURT OF ANDHRA PRADESH: AMARAVATI
HON'BLE Mr. JUSTICE PRASHANT KUMAR MISHRA, CHIEF JUSTICE
&
HON'BLE Mr. JUSTICE NINALA JAYASURYA

I.A.Nos.2 and 3 of 2023
IN
WRIT PETITION No.3041 of 2023

COMMON ORDER

Dt.14.02.2023

(Prashant Kumar Mishra, CJ)

Heard Mr. Vikas Singh and Mr. Devadutt Kamat, learned senior counsel assisted by Mr. Mayank Jain and Mr. Madhur Jain – learned counsel, on behalf of Mr. M.R.K. Chakravarthy - learned counsel for the petitioners.

2. Also heard Mr. S. Sriram, learned Advocate General appearing for the respondent-State.

3. This order shall govern disposal of I.A.Nos.2 and 3 of 2023 in W.P.No.3041 of 2023.

4. In I.A.No.2 of 2023, petitioners have prayed for ex parte ad interim direction suspending/staying the operation of the impugned G.O.Rt.No.12 dated 29.06.2022 and G.O.Rt.No.25 dated 08.12.2022; whereas, in I.A.No.3 of 2023 in the same writ petition, petitioners would pray for ex parte

ad interim direction to respondent No.8-Audit Bureau of Circulations to suspend the audit/desist from auditing the circulation of SAKSHI newspaper for the period July-December 2022 and for subsequent period, pending disposal of the writ petition.

5. Petitioner No.1 in W.P.No.3041 of 2023 is a company which owns and publishes Telugu daily newspaper EENADU, whereas petitioner No.2 is the whole-time director and shareholder of petitioner No.1-company. The prayer for issuance of ex parte ad interim directions is based on submission that EENADU newspaper (hereinafter referred as petitioners-newspaper) is the largest circulated Telugu daily newspaper, however, its circulation has been artificially and systematically curtailed by the illegal acts of the State Government between 2019-2022 ever since the present Government came into power; this has resulted in unusual and undeserved rise of SAKSHI newspaper, which, in turn, is owned and controlled by the Hon'ble Chief Minister of Andhra Pradesh and his family.

6. To substantiate this, learned senior counsel appearing for the petitioners would refer to the circulation figures issued

by the Audit Bureau of Circulations (ABC) from the year 1978-2022 (Annexure P1). They would submit that primary function of ABC is to secure accurate circulation figures and data relating to all member publications that sell advertising space and its certification is relied upon and used by advertisers, advertising agencies, publishers and organizations connected with print media in order to make informed choices and the figures published by ABC are accepted by the industry and general public without demur. The figures published by ABC, thus, have huge impact on the advertising rate of a particular newspaper. It is also argued that since after 2019, the tariff rate for advertising in relation to SAKSHI newspaper has gone up, to the detriment of the petitioners-newspaper without any justification and the Government departments have released more advertisements to SAKSHI newspaper than that of the petitioners-newspaper, which is having more circulation; at one point of time, under the orders of the Hon'ble Speaker of the Andhra Pradesh Legislative Assembly, the petitioners-newspaper was banned from attending Assembly sessions.

7. In respect of the impugned G.Os., it is argued that on 29.06.2022, respondent No.2-Department of Gram Volunteers/Ward Volunteers and Village Secretariats/Ward Secretariats, issued G.O.Rt.No.12 dated 29.06.2022 sanctioning Rs.200/- per month from the State funds as additional financial support for each Gram Volunteer/Ward Volunteer to enable them to purchase one widely circulated Telugu newspaper which gives them more knowledge and awareness on contemporary issues and information on Government schemes. This was done to boost circulation of SAKSHI newspaper by 2.66 lakh subscriptions. Thereafter, G.O.Rt.No.25 dated 08.12.2022 was issued by the same respondent sanctioning grant of Rs.200/- per month as additional financial support for each Gram / Ward Secretariat Functionary (1.35 lakh in number), to enable them to purchase one widely circulated Telugu newspaper. With this aggregated amount of Rs.5.32 crores per month, all individual volunteers have subscribed SAKSHI newspaper alone and not any other widely circulated Telugu newspaper though the petitioners-newspaper is the widest circulated Telugu newspaper in Andhra Pradesh.

8. It is vehemently put forth that fixation of additional grant of Rs.200/- per month is premeditated and tailored to suit monthly subscription charges of SAKSHI (at Rs.176.50 per month) and to arbitrarily exclude the petitioners-newspaper (at Rs.207.50 per month). Thus, public funds are unlawfully utilized to help SAKSHI newspaper to grow over and above the circulation of the petitioners-newspaper. The State Government is, thus, deliberately disturbing the level playing field to artificially enhance the circulation of SAKSHI newspaper, which, in turn, is owned and controlled by the Hon'ble Chief Minister of Andhra Pradesh and his family.

9. It is next argued that since after June 2022, circulation of SAKSHI newspaper is artificially increased and if the subscription figures audited by ABC for the period after June 2022 are released, the same would result in immense loss to the petitioners-newspaper to the benefit of SAKSHI newspaper, gained at the instance of taxpayers' money.

10. The learned Advocate General would vehemently oppose the prayer for ex parte interim relief. He would submit that at no point of time, the State Government has issued any communication either by issuing any G.O. or orally

directing any Gram Volunteer/Ward Volunteer and Village Secretariat/Ward Secretariat to subscribe to any particular newspaper. The Volunteers are paid honorarium of Rs.5,000/- per month and in addition they are being paid Rs.200/- per month for purchase of a newspaper; if the Volunteers are purchasing one or the other newspaper from their funds, neither the State Government has absolutely any control over them nor does the State Government desire to control them in this particular aspect of the matter. He would submit that the allegations of mala fide against the State Government are not substantiated and, thus, they are wholly unfounded and maliciously designed to project a different picture before this Court to raise a legal submission in a matter, which does not warrant interference under Article 226 of the Constitution of India, either at the interim stage or at final stage. He would submit that on the same set of allegations, W.P. (PIL) No.222 of 2020 was filed without impleading the Hon'ble Chief Minister and his family members; however, since no orders could be obtained in the said W.P. (PIL), the present writ petition has been preferred, in which relief clause B(b), (c) and (d) are not personal to the

petitioners, but are in the nature of relief in *rem* which is usually prayed in a PIL.

11. Having heard the learned senior counsel appearing for the petitioners and the learned Advocate General for the State, it appears, the crux of the matter pertains to a dispute which is more in the nature of a commercial or business dispute of SAKSHI newspaper and the petitioners-newspaper EENADU. Ordinarily, in a commercial war between two parties, writ court would rarely interfere at the interim stage. There is no material in the shape of any Government Order instructing the Gram Volunteers/Ward Volunteers and Village Secretariats/Ward Secretariats to subscribe to any particular newspaper. Whether or not the additional grant of Rs.200/- per month is aimed at enabling the Gram Volunteers/Ward Volunteers and Village Secretariat/Ward Secretariat to purchase only SAKSHI newspaper is a matter to be considered after a full-fledged hearing when the pleadings are exchanged. At this stage, mere allegations by the petitioners without any foundational support papers disenable this Court to reach a prima facie conclusion that the State Government is trying to increase the subscription of SAKSHI newspaper.

Insofar as the circulation figures or the ban imposed by the Hon'ble Speaker of the Andhra Pradesh Legislative Assembly is concerned, suffice it would be to say that the Legislative Assembly is an independent Organ, whose actions are not under challenge in this petition. The circulation figures are only data released by ABC, which the petitioners themselves have relied on in the past and there are also pleadings in the writ petition according credibility to the circulation data released by ABC. Thus, it cannot be presumed at this stage that the affairs of ABC can be manipulated. If the G.Os., issued by the Government of Andhra Pradesh have eventually increased the subscription of one or the other newspaper and the same may be used by ABC for releasing the latest circulation data, this Court would not restrain the ABC from releasing such data only because a particular newspaper has been purchased by Gram Volunteers/Ward Volunteers and Village Secretariats/Ward Secretariats by using the funds provided by the State Government, more so when there is no material showing that the State Government has ever directed any of such subscribers to subscribe to a particular newspaper.

12. In our considered view, present is not a fit case where ex parte ad interim directions as prayed for in I.A.Nos.2 and 3 of 2023 can be issued in favour of the petitioners.

13. Accordingly, I.A.Nos.2 and 3 of 2023 are dismissed.

14. It is made clear that the observations made above are only for deciding I.A.Nos.2 and 3 of 2023 and the same shall not affect the case at the stage of final disposal.

Sd/-

Sd/-

PRASHANT KUMAR MISHRA, CJ NINALA JAYASURYA, J

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