

THE HON'BLE Ms. JUSTICE B.S.BHANUMATHI

Civil Revision Petition No.454 of 2021

ORDER:

This revision petition, under Article 227 of the Constitution of India, is preferred against the order, dated 01.04.2021, passed in I.A.No.292 of 2021 in O.P.No.75 of 2021 on the file of the Court of the Principal District Judge, West Godavari District, at Eluru, by adjourning the matter from 01.04.2021 to 19.04.2021, i.e., beyond the date of 11.04.2021 on which day the action sought to be injuncted was proposed to be held.

2. Heard *Sri P.Radha Krishna*, learned counsel for the revision petitioner and *Sri K.Chidambaram*, learned senior counsel appearing for Sri A. Lalith Nikhil, learned counsel for the 2nd respondent. Though 1st respondent is served with notice, there is no appearance on its behalf.

3. The facts, which lead to filing of the revision petition, briefly, are as follows:

(a) The revision petitioner herein, West Godavari District Arya Vysya Sangham, filed O.P.No.75 of 2021 to declare the election of the 2nd respondent by the 1st respondent-A.P Arya Vysya Maha Sabha ('APAVMS', for short) as the President of the West Godavari District Arya Vysya Sangham ('Sangham', for brevity) and to direct

the 1st respondent to permit the petitioner to conduct elections in order to elect the President of the Sangham. The main contention of the revision petitioner is that the petitioner is the society at the district level under the name, West Godavari District Arya Vysya Sangham, represented by its President, Sri Kona Srinivasa Rao, and is registered under the Societies Registration Act, 2001 and the 2nd respondent is one of the members of the said Sangham and that due to advent of Covid-19 pandemic, elections at the district level in some districts were not conducted to elect the President and remaining members of the committee, but in the prevailing circumstances in West Godavari district, a general body meeting was conducted on 06.12.2020 and the 1st respondent, being the President of APAVMS, passed a resolution to conduct elections on 31.01.2021 to elect the Presidents of the respective districts. The 1st respondent is the President of the society at the state level. The 1st respondent requested all the districts to elect Presidents unanimously, if possible, *vide* letter, dated 09.12.2020, as per which the petitioner Sangham passed resolution, dated 02.01.2021, and appointed Election Commissioner with the advice of the 1st respondent to conduct elections of the Sangham and also fixed the schedule for conduct of the elections by appointing the committee for this purpose.

(b) However, the 2nd respondent, by concocting some allegations against the Election Commissioner, requested the 1st respondent and thereby, the 1st respondent ultimately interfered with the election and temporarily cancelled the duties of the Election Commissioner and the 1st respondent himself appointed an *ad hoc* committee and postponed the elections indefinitely without enquiring the members of the petitioner Sangham and without submitting report or the statements of the members recorded. The petitioner further contended that surprisingly the 1st respondent sent a notification about the selection of the 2nd respondent as new President of the Sangham by unilaterally acting, though maximum number of members and the ex-Presidents of the Sangham expressed their consent to elect Sri Naryana Visweswara Rao unanimously as their President for the years 2021-2023. It is also averred that the Election Commissioner, Sri Chinni Rama Satyanarayana did not commit any misdeeds; but, without any enquiry, the 1st respondent took the action, that too, against the bylaws of the Maha Sabha, which require democratic election for every two years. According to the petitioner, the 1st respondent elected the 2nd respondent as President of the Sangham, *vide* letter, dated 15.03.2021, against the bylaws of the society which does not confer any authority on the 1st respondent to do so. It is also contended by the petitioner that as per Rule 18(4) of the District

Arya Vysya Sangh bylaws, election of the District President should not be hindered by any member and no President of the State Maha Sabha can force the District Society members to accept its own candidate as the President of the District Society. However, the 1st respondent would like to take charge of the District Arya Vysya Sangham from the hands of the present President and handover the same to the 2nd respondent against the law.

4. Along with the revision petition, the petitioner filed I.A.No.292 of 2021 seeking interim relief of temporary injunction restraining the respondents 1 & 2 from ever interfering with the Presidential functions of the petitioner till disposal of the main petition.

5. This petition was first taken up for hearing by the District Court on 23.03.2021. The District Court directed issuance of urgent notice and posted to 26.03.2021, without granting temporary *ex parte* injunction. The Process Server returned the notice, *vide* memo, dated 25.03.2021, stating that the 2nd respondent was not in the town when he went there to serve notice and thereby, he took phone number of the 2nd respondent from his family members and made a phone call requesting to take notice, but, he refused to take notice stating that he would come back to the town two days later, and thus, he could not serve the notice and returned it to the Court, with his report, dated 25.03.2021 and on 26.03.2021, the

Court again ordered issuance of fresh notice and posted the matter to 01.04.2021. On 01.04.2021, the District Court again posted the matter directing issuance of notice and adjourning the matter to 19.04.2021. Since the 2nd respondent proposed to take oath on 11.04.2021, the petitioner immediately approached this High Court by filing the present revision petition stating that the District Court ignored the urgency in the matter by ordering notices twice to the respondents in I.A.No.292 of 2021, despite there being deliberate avoidance in taking notices, as is evident from the report of the Process Server, and also complaining illegality, arbitrariness and unilateral claim of the respondents in proceeding further. The revision petitioner sought this Court to set aside the docket proceedings/issuance of notices thrice to the respondents in I.A.No.292 of 2021 and pass such other orders as are deemed fit and proper in the circumstances of the case.

6. After hearing the revision petitioner, on 10.04.2021, this Court passed the following order:

“ Notice before admission.

Learned counsel for the petitioner is permitted to take out personal notice on the respondents by registered post with acknowledgment due and file proof of service into the Registry.

Having considered the submissions of the learned counsel for the petitioner, one Chinni Rama Satyanarayana was appointed as Chairman of the Election Committee by Resolution dated 02.01.2021 to conduct elections to the West Godavari

District Arya Vysya Sangham. Election Schedule is fixed and dates are announced. The dates are fixed to file nominations for scrutiny and withdrawal of nominations and poling of votes has been fixed from 23.01.2021 to 31.01.2021. One Sri Narayana Visweswara Rao and Mahankali Ranga Prasad and Nudrumati Srinivas filed their nominations. However, Nudurumati Srinivas withdrew the nominations and remaining two candidates in the fray. The first respondent unilaterally on the complaint made by the second respondent interdicted the election process without any power or authority and appointed the adhoc committee by letter dated 15.03.2021 nominating Sri Mahankali Ranga Prasad as the President of the West Godavari Arya Vysya Sangham (2nd respondent), which is illegal and contrary to the bye-laws of the petitioner-society.

Hence, there shall be an interim stay of swearing-in-ceremony of second respondent as President to the West Godavari District Arya Vysya Sangham on 11.04.2021 (Sunday) at Alapati Gangabhavani Kalyana Mandapam, Jangareddygudem, West Godavari District or any other subsequent date and alternative place, while suspending the order of the first respondent, dated 15.03.2021, till 30.04.2021.

Post on 30.04.2021."

7. According to the revision petitioner, the above said order has been flouted by the respondents, and therefore, C.C.No.1947 of 2021 was filed by the revision petitioner and the same is pending before the Bench which granted the above order.

8. The 2nd respondent herein filed I.A.No.1 of 2022 to vacate the interim order, dated 10.04.2021, and pass such other order or orders stating that the revision petition was filed with false

allegations and the revision petition is not maintainable and the grievance of the petitioner against issuing notices thrice by the District Court is nothing but contradicting the process of the trial Court and the revision petitioner cannot touch the merits in O.P.No.75 of 2021 in this revision petition seeking to exercise powers conferred upon this Court under Article 227 of the Constitution of India. The petitioner in I.A.No.1 of 2022 further contended that he has neither violated nor disobeyed the order, dated 10.04.2021, and that the said order will not serve any purpose since swearing-in-ceremony was completed by 24.03.2021 itself and it is only 'Abhinandana Sabha' which was conducted on 11.04.2021 to congratulate the newly elected body and thereby, requested to vacate the interim order. In view of filing of I.A.No.1 of 2022, a request is made by the 2nd respondent in the revision petition to take up hearing in the revision petition.

9. *In reply*, learned counsel for the revision petitioner submitted that the revision is before this Court as per the roster, and that it is the normal practice that the revision petition be tagged to the proceedings in the contempt case and further that the contempt petition will be heard by the Judge, who passed the order said to have been violated. Therefore, learned counsel for the revision petitioner requested that both matters be heard and disposed of by the same Judge, but not by this Court merely because this Court

has roster over the subject. In this regard, he further submitted that the jurisdiction to exercise for disposal of the revision petition is under Article 227 of the Constitution of India whereas the jurisdiction to be exercised in C.C.No.1947 of 2021 is under Article 215 of the Constitution of India and both are distinct, but, since the matter has been seized by that Court by passing order under Article 227 of the Constitution of India and the contempt case is yet to be disposed of, it is just and necessary that both the matters be heard and disposed of by the same Judge.

10. On the other hand, learned counsel for the 2nd respondent submitted that as per the roster, the revision petition is rightly posted before this Court and that unless the Judge who passed the order alleged to have been violated is not available, the contempt case will not be posted before another Judge and therefore, the matter in the contempt case pending before the other Court cannot be posted before this Court and that the allotment of matters in roster is only for administrative convenience. He further submitted that since this revision petition can be independently disposed of as there is no interim order in force as on date after it got expired in the past; there is no hurdle to dispose of the revision petition by this Court now. He further submitted that due to pendency of the revision petition, the District Court is also not taking up the matter for hearing.

11. Learned counsel for the revision petitioner pressed for disposal of both matters together, however, he has submitted his arguments on merits as well. In that context, he submitted that the laxity of the District Court in not taking up the matter in the interlocutory application should be examined in the revision and an order thereon needs to be passed and that the revision petition cannot be disposed of merely by recording that the revision petition has become infructuous by passage of time and change of events.

12. As the contempt proceedings are independent of the revision petition and they are based on the violation in the past as there is no continuity in the interim order, this Court is of the opinion that contempt proceedings can be dealt with independently. Had it been the case that there is continuity of the interim order and violation of the order is also continuous, both matters can be heard and disposed of together. In view of the fact that there is no subsisting interim order as on date and the contempt case is based on the past conduct; pendency of the contempt case does not come in the way of disposal of this revision petition.

13. Coming to the merits of the revision petition, since this Court cannot express any view about the alleged violation of the bye-laws by the respondents, as the same is the subject matter in the petition before the District Court, too many details of the pleadings

in the petition and the counter before the District Court need not be delved here.

14. The main grievance of the revision petitioner in coming to this Court is that, by then, since the District Court has not immediately taken a decision on the interlocutory application by adjourning the matter to a longer date than the material date in that case, the revision petitioner was aggrieved. Of course, having secured an interim order in the revision petition in its favour, according to the revision petitioner, the order could not be effectively enforced as the respondents violated the said order. This is the subject matter of contempt proceedings before another Bench. Therefore, the submissions made in this regard by both parties need not be mentioned here.

15. A perusal of the steps taken by the District Court, while dealing with the matter at the initial stages of petition in I.A.No.292 of 2021, shows that the District Court has not bestowed its attention to the urgency pleaded by the petitioner and has adjourned the matter without recording reasons to a date long after the day in respect of which all the focus made by the petitioner alleging that on 11.04.2021 the interest of the petitioner was going to be put to peril by violating the bye-laws. The District Court has not looked into the report filed by the Process Server and in a routine and casual manner directed issuance of fresh notice not

caring to take up the matter in view of the urgency pleaded by the petitioner. This kind of practice is deprecated as the parties would approach a Court seeking justice. The approach of a Court shall be to decide the matter on merits rather than casually adjourning the matter by not giving reasons for such adjournment in spite of the urgency pleaded by the party. Unless reasons are disclosed, it is difficult for a superior Court to examine the intention of a Court to take any decision. Therefore, it is time and again stated that an order of a Court must be a speaking order, that is, order supported by reasons, even in respect of small step like adjourning a matter, where it is necessary to give reasons for adjourning a matter. As such, in the present case, the approach adopted by the District Court does not appear to be in consonance with the legally sustainable procedure. Since long time had elapsed, there is no point in interfering with the said order.

16. Right now, the District Court could have proceeded further and both parties are also free to proceed further before the District Court in the main petition as there is no order of stay of the proceedings before the District Court. In case of urgency, any party can make a request to the Court for taking up the matter expeditiously, as the term of office of the President, as per the bye-laws, is only two years and almost major part of it is completed by now and the term left is very short. Since the dispute about the

validity of the appointment of 2nd respondent is the subject matter in the petition before the District Court, any further delay would frustrate the filing of the petition before the District Court. As such, it is felt necessary to direct the District Court to expeditiously dispose of the main petition/OP itself, as early as possible, preferably, within a month from the date of receipt of a copy of this order. It is made clear that disposal of this revision petition has no bearing on the merits in the contempt proceedings.

17. Accordingly, the Civil Revision Petition is disposed of.

There shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

B. S. BHANUMATHI, J

03-01-2023

Note:- Issue CC within a week
(B/o)
RAR