

**(SHOW CAUSE NOTICE BEFORE ADMISSION)
IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI
(Special Original Jurisdiction)**

TUESDAY, THE FIFTH DAY OF JULY
TWO THOUSAND AND TWENTY TWO

:PRESENT:

**THE HONOURABLE SMT JUSTICE KONGARA VIJAYA LAKSHMI
WRIT PETITION NO: 19036 OF 2022**

Between:

Shaik Moula Saheb, S/o. Late Khader Saheb Age. 59 Years, Presently working as Junior Asst., At Rayachoti Municipality, R/o. John Puram, Rajam Pet Annamayya District, (cuddapah)

Petitioner

AND

1. The Special Chief Secretary to The Government of AP, MA & UD (Vigillance- III) Department 2nd building, Ground floor Secretariat Buildings, Velagapudi, Amaravati, Andhra Pradesh.
2. Commissioner and Director of Municipal Administration Department, Vaddeswaram, Mangalagiri, Guntur District, Andhra Pradesh.
3. The Regional Joint Director of Municipal Administration Ananthapuram, Ananthapuram District, Andhra Pradesh.
4. The Municipal Commissioner Rajampet Municipality, Cuddapah District.
5. Member, Commissionerate of Inquiries, General Administration (COI-RPT) Department. Room No.267, 1st floor, Building No.5, Secretariate, Velagapudi, Guntur.

... Respondents

WHEREAS the Petitioner above named through his Advocate Sri K R SRINIVAS presented this Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ or Order more in the nature of Mandamus in declaring the action of the respondents in closing the departmental enquiry against the petitioner on the same charges in criminal case as illegal, arbitrary, unjust, violative of principles of natural justice, in breach of Rule 20 of the CCA Rules, and consequentially direct the respondents not to proceed pass final orders with the departmental enquiry against the petitioner arising out of the charge memo GO Rt No.485 MA and UD (VIG.II) Department dated.11.04.2014 and ,which is now before the Commissioner Of Enquiries numbered as the Notice No.120/COI.RPT/2021,till the conclusion of the Trail CC No.22/2016 pending Trial before the Honourable Judicial Magistrate Of First Class . Rajampet.

AND WHEREAS the High Court upon perusing the petition and affidavit filed herein and upon hearing the arguments of Sri K R SRINIVAS Advocate for the Petitioner GP for MA & UD for Respondent Nos.1 to 3 and Sri N. Ranga Reddy, SC for Respondent No.4 and GP for GAD for Respondent No.5, directed issue of notice to the Respondents herein to show cause as to why this WRIT PETITION should not be admitted.

You viz:

1. The Special Chief Secretary to The Government of AP, Municipal Administration (Vigillance- III) Department 2nd building, Ground floor Secretariat Buildings, Velagapudi, Amaravati, Andhra Pradesh.
2. Commissioner and Director of Municipal Administration Department, Vaddeswaram, Mangalagiri, Guntur District, Andhra Pradesh.
3. The Regional Joint Director of Municipal Administration Ananthapuram, Ananthapuram District, Andhra Pradesh.
4. The Municipal Commissioner Rajampet Municipality, Cuddapah District.
5. Member, Commissionerate of Inquiries, General Administration (COI-RPT) Department. Room No.267, 1st floor, Building No.5, Secretariate, Velagapudi, Guntur.

are be and hereby directed to show cause either appearing in person or through an Advocate, as to why in the circumstances set out in the petition and the affidavit filed therewith (copy enclosed) this WRIT PETITION should not be admitted, on or before 30-8-2022 on which date the case stands posted for hearing.

IA NO: 1 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to STAY all further proceedings in the departmental enquiry against the petitioner arising out of the charge Memo GO Rt No.486 MA and UD (VIG.II) Department dated.11.04.2014 which now before the Commissioner Of Enquiries numbered as the Notice No.120/COI.RPT/2021,till the conclusion of the trial CC No.22/2016 pending Trial before the Honourable Judicial Magistrate Of First Class. Rajampet, pending disposal of WP No. 19036 of 2022, on the file of the High Court.

The Court made the following: ORDER

“Notice before admission returnable in four (4) weeks.

This Writ Petition is filed seeking stay of departmental enquiry initiated against the petitioner as the charges in Criminal Case No.22 of 2016 and in the departmental enquiry are one and the same.

The case of the petitioner is that the charges pertain to dereliction of duties and misappropriation of the amount which was collected for water tax and property tax for the years 2004-05 to 2011-12 and CC No.22 of 2016 is pending for trial before the learned Judicial Magistrate of First Class, Rajampet and all the records were handed over to the Hon’ble Judicial Magistrate of First Class, Rajampet and hence departmental enquiry is liable to be stayed.

Learned counsel for the petitioner has relied upon the judgment in Capt. M. Paul Anthony v. Bharat Gold Mines Limited (JT 1999 (2) SC 456), wherein the Hon’ble Supreme Court observed as follows.

“The conclusions which are deducible from various decisions of this Court are:

- (i) Departmental proceedings and proceedings in a criminal case can proceed simultaneously as there is no bar in their being conducted simultaneously, though separately.**
- (ii) If the departmental proceedings and the criminal case are based on identical and similar set of facts and the charge in the criminal case against the delinquent employees is of a grave in nature which involves complicated questions of law and fact, it would be desirable to stay the departmental proceedings till the conclusion of the criminal case.**
- (iii) Whether the nature of a charge in a criminal case is grave and whether complicated questions of fact and law are involved in that case, will depend upon the nature of offence, the nature of the case launched against the employee on the basis of evidence and material collected against him during investigation or as reflected in the charge sheet.**
- (iv) The factors mentioned at (ii) and (iii) above cannot be considered in isolation to stay the departmental proceedings but due regard has to be given to the fact that the departmental proceedings cannot be unduly delayed.**
- (v) If the criminal case does not proceed or its disposal is being unduly delayed, the departmental proceedings, even if they were stayed on account of the pendency of the criminal case, can be resumed and proceeded with so as to conclude them at an early date, so that if the employee found not guilty his honour may be vindicated and in case he is found guilty, administration may get rid of him at the earliest.”**

Learned counsel for the petitioner submits that in similar facts and circumstances, this Court in WP No.6870 of 2022, dated 23.03.2022, passed an interim order staying the departmental proceedings.

In view of the facts and circumstances, there shall be interim stay as prayed for till 30.08.2022.

List the matter on 30.08.2022."

Sd/- U. SRI DEVI
ASSISTANT REGISTRAR

//TRUE COPY//

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SECTION OFFICER

To,

1. The Judicial Magistrate of First Class, Rajampet, Cuddapah District.
2. The Special Chief Secretary to The Government of AP, (Vigilance- III) Department 2nd building, Ground floor Secretariat Buildings, Velagapudi, Amaravati, Andhra Pradesh.
3. Commissioner and Director of Municipal Administration Department, Vaddeswaram, Mangalagiri, Guntur District, Andhra Pradesh.
4. The Regional Joint Director of Municipal Administration Ananthapuram, Ananthapuram District, Andhra Pradesh.
5. The Municipal Commissioner Rajampet Municipality, Cuddapah District.
6. Member, Commissionerate of Inquiries, General Administration (COI-RPT) Department. Room No.267, 1st floor, Building No.5, Secretariate, Velagapudi, Guntur. (2to 6 by RPAD- along with a copy of petition and memorandum of grounds)
7. One CC to SRI. N.Ranga Reddy, SCAdvocate [OPUC]
8. One CC to SRI. K R SRINIVAS Advocate [OPUC]
9. Two CCs to GP FOR GAD, High Court Of Andhra Pradesh. [OUT]
10. Two CCs to GP FOR MA & UD, High Court Of Andhra Pradesh. [OUT]
11. **One spare copy**

PR

HIGH COURT

KVL,J

DATED:05/07/2022

LIST THE MATTER ON 30.08.2022

NOTICE BEFORE ADMISSION

WP.No.19036 of 2022

INTERIM STAY

