

SUPREME COURT OF INDIA

High Court of Andhra Pradesh

Vs.

Andhra Pradesh & Ors.

C.A.No.4662 of 2004

(Arijit Pasayat and L.S.Panta,JJ.,)

21.03.2007

JUDGMENT

Dr.Arijit Pasayat, J.,

1. Challenge in this appeal is to the order passed by the Division Bench of the Andhra Pradesh High Court in a Letters Patent Appeal nos. 184-85/2002. The two Letters Patent Appeals were directed against the common judgment of the learned Single Judge dated 11.9.2002 in CC No.493/01 and CC No.1211/01. By said order learned Single Judge recorded a finding that the Government of Andhra Pradesh deliberately violated the orders passed by the Court in Writ Petitions nos. 6511 and 6513 of 1999. It was held that the respondent in CC 185/2002 had filed a wrong sworn affidavit in writ petition 6513/99 for which he is liable for perjury apart from other consequences. But the learned Judge took a lenient view in the matter after considering several factors including the unconditional apology. During the hearing of the Letters Patent Appeal one of the issues which came for consideration was whether instructions of the High Court in the matter listing of the contempt matters were complied with. The Division Bench by the impugned order held that the Chief Justice had the authority in fixing the roster and allot work to the brother Judges. But the direction given by the Chief Justice not to post contempt case before the learned Judges whose orders have been violated but before Judges who are having provision to dispose of the matter runs counter to the rules of the Contempt of Court Rules, 1980 (in short the 'Contempt Rules') framed by the High Court under Section 23 of the Contempt of Courts Act, 1971 (in short the 'Contempt Act') read with Articles 215 and 227 of the Constitution of India, 1950 (in short the 'Constitution') and Section 129 of the Code of Civil Procedure, 1908. Hence it was directed that Registry to post contempt case filed either by the aggrieved person or initiated by the Court in exercise of suo motu powers before Judge or Judges in respect of whose judgment the contempt is alleged or the Judge or Judges who initiated the contempt proceedings as contemplated under Rules 12 and 15 of the Contempt Rules.

2. The High Court of Andhra Pradesh has filed the appeal in question. Andhra Pradesh High Court Advocates' Association has been impleaded by orders of this Court. Learned counsel

for the appellant and the Andhra Pradesh High Court Advocates' Association submitted that the matter is having serious implications and this Court should lay down the norms.

3. The primary grievance seems to be transfer of the cases which were coming for hearing under the captions "CAV", "for judgment" and "for pronouncement of judgments". The following orders need to be quoted. They are as follows:

"(A) Note to be printed in the Weekly Cause List dated 4.8.2003 at the end of the sitting provision of the Hon'ble Judges.

"Contempt cases (Admission and final hearing) arising from orders in the main cases or in the miscellaneous petitions will be posted before the Hon'ble Single Bench or the Division Bench having the provision to dispose of the main proceedings as per the roster, as the case may be."

(B) "Clarification In pursuance of the instructions of the Hon'ble the Chief Justice the following note was printed in the Weekly Cause List dated 21st July, 2003.

"All matters under various captions including "for Judgment" stand released from the Benches not having the subject on its roster and will be posted before the concerned Benches having the said subject on its roster".

I am further instructed to clarify that those proceedings where the judgments are reserved under the caption "CAV" will not come under the purview of the caption "for judgment" of the above note. Soon after receiving the Court slips either from the Court Officers or the Personal Secretaries to the Hon'ble Judges, where the cases are reserved for judgment, such proceedings will find place in the Cause List under the caption "for pronouncement of judgment" on the day when judgment is ready and is to be pronounced. I am further instructed to clarify that those matters which are coming up for hearing under the caption "for judgment" and when the provision is not with the Hon'ble Judge, such matters alone stand released.

The Personal Secretaries to the Hon'ble Judges are asked to place this information before the Hon'ble Judges."

4. However, the controversy seems to have lost its effect in view of the recent circular dated 6.1.2007 issued by the High Court. The same reads as under:-

"R.O.C. No.2/R-JUDICIAL/2007 DATED 6.1.2007 CIRCULAR

Contempt Cases (Admission and Final hearing) arising from orders in the main cases or in the Miscellaneous Petitions will be posted before the Hon'ble Single Bench or the Hon'ble Division Bench in respect of whose Judgment, decree, direction, order, writ or other process the contempt is alleged or before whom the undertaking was given in respect of which wilful breach was committed or before some other Hon'ble

Judge or Hon'ble Judges as the Hon'ble the Chief Justice may direct in case the Hon'ble Judge or Hon'ble Judges concerned is or are not available, for preliminary hearing and for orders as to issue of notice to the Contemnor or Contemnors as the case may be, as per Rule 12 of the Contempt of Court Rules, 1980 and it is further notified that the earlier Notice dated 4th August, 2003 wherein Contempt Cases (Admission and Final hearing) arising from orders in the main case or in the Miscellaneous Petitions will be posted before the Hon'ble Single Bench or the Hon'ble Division Bench having the provision to dispose of the main proceedings as per the Roster is withdrawn forthwith.

Sd. REGISTRAR (JUDICIAL)"

5. In view of the circular dated 6.1.2007 the confusion seems to have cleared. At this juncture, it is to be noted that where the matter is heard in part, normally it should not be transferred to another Bench or learned Single Judge. But it has come to notice in several instances that cases have been noted to be part-heard even when it was really not so. Such practice is to be discouraged. The Chief Justice of the High Court has power even to transfer a part-heard case from Bench to another or from one learned Single Judge to another. But this should be done in exceptional cases for special reasons.

6. The appeal is accordingly disposed of with no order as to costs.