

**SUPREME COURT OF INDIA**

Dr.B.Madhusudhan Reddy

Vs.

Peela Pothinaidu & Ors.

C.A.No.6489 of 2005

(R.M.Lodha and Shiva Kirti Singh,JJ.,)

02.04.2014

**ORDER**

:

This appeal by special leave arises from the judgment of the Andhra Pradesh High Court disposing of three writ petitions praying for diverse reliefs. The principal grievance raised in the writ petition was issuance of GO dated 22.6.2004 by reconstituting the Sri Justice B. K. Somasekhara Commission after withdrawing GO Ms. No. 544 dated 4.8.2001 and GO Ms. No. 553 dated 8.8.2001 under which the Government had formed opinion that the continued existence of the Commission was unnecessary and there by the Government of Andhra Pradesh directed that the Commission of Inquiry shall be deemed to have ceased to exist with effect from the first day of December, 1999. In GO Ms.No. 58 dated 22.6.2004, it was directed that the Commission of Inquiry would be deemed to have continued with effect from 1.12.1999 and shall continue its inquiry from where it was stopped.

2. The controversy relates to Yeleru irrigation scam.

3. On 19.10.2005, this Court granted leave. Thereafter orders have been passed from time to time. The last order dated 30.10.2013 reads as follows: A counter-affidavit has been filed by the Government of Andhra Pradesh through its Principal Secretary, Irrigation & CAD Department. The affidavit states that disciplinary action was initiated against as many as 21 government employees besides one Sub-Judge, one Government Pleader and five judicial staff of whom 6 have been accorded punishment already. The present status of disciplinary action against government employees involved in Yeleru Scam and against whom the disciplinary action has not yet attained finality, are set-out as follows:

Sl. Name & Designation of Stage of the  
No Officer disciplinary Case

1. Sri V.Sarma Rao., Disciplinary  
IAS., (Retd) proceedings initiated against the Member of Formerly Service by framing  
Commissioner, Social charges under AIS (D&A) welfare Rules 1969, vide G.O.Rt.  
No.1242, G.A. (SC.D) Dept., dt:

30.03.2000 for the irregularities committed by him, while working as Commissioner of Social Welfare A.P., Hyderabad. Enquiry conducted, Government after due procedures decide to impose a penalty of "50% cut in pension and gratuity" against the members of service. According proposals were submitted to Government of India vide Lr.No.72/Sc.D/A3/1998-5 3, dt:21.05.2010. Orders of the Govt., of India are awaited. Sri K.Sukhender Reddy, IAS., formerly J.S to Govt., I&CAD Department. Departmental action was initiated against the officials of I & CAD Department. After examining the WSDs of the A.Os the charges were entrusted to the inquiring Authority (COI) to conduct common enquiry. Sri K. Sukkhendar Reddy, IAS (Retd.) filed O.A. No.1010/2000 before the CAT, Hyderabad Bench, challenging the disciplinary proceedings. In its orders dt.10.08.2001, the CAT has disposed the O.A. quashing the charge Memo issued to Sri K. Sukhendar Reddy, IAS (Retd.) vide G.O. Rt. No.1238, G.A.(SC.D) Department dated 30.03.2000. Government after careful examination filed W.P. No. 19111/2001 against the CAT's orders. The Hon'ble High Court in its orders dt. 18.09.2001 granted interim suspension of the CAT's order. The High Court in its further orders in W.P.M.P No.24044/2001 and W.P.M.P. No. 3257/2001 in W.P. No.19111/2001 dated.20.12.2001 directed the State Government not to proceed with the Enquiry against the respondent, pending further orders. The chairman COI has been informed accordingly Sri D.Parthasarathy, The report of COI is

The report awaited.\ of COI is The report of COI is (retd) formerly Asst.Secy to Govt., I&CAD Department.

4. Sri P.Viswswara Rao, formerly, Section Officer, I&CAD Department. Now Asst.Secretary

5. Sri M.Subhan khan, formerly Asst Section awaited.

5awaited. Submitted that, COI submitted enquiry report holding that the charge farmed against

12. Sri. S.Chinnayya Chari, former Tahsildar, Revenue Dept.,

Officer, I&CAD

Department

Sri N.Seshagri Rao

Executive Engineer

(Retd) YRC Division,

Peddapuram, I&CAD

Department

Smt. Anitha Rajendran, IAS former Revenue Divisional officer, Revenue Dept.,

Sr. B.R.S. Prasad, former

Sr.Asst.Revenue Dept.,

Smt. M.Leela, former Dy. Tahsildar, Revenue Dept.,

10. Sri A. Krishna Rao, (Retd) former Spl. Tahsildar, Revenue Dept.,

11. Sri B.Ammaji Rao, (retd) former Spl. Tahsildar, Revenue Dept.,

He was arrested and suspended while working as a Executive

Engineer, YRC Division, Peddapuram.

He was retired in suspension, further he is taking provisional pension of Rs6,167/- in the Department COI Conducted enquiry and submitted enquiry report holding that charges framed against the C.O. not held proved. Accordingly

further action was

Dropped.

COI Conducted enquiry and submitted enquiry report holding that charges framed against the C.O. not held proved. Accordingly

further action was

Dropped.

Further action was dropped based on report of CCLA.

The Collector,

Visakhapatnam has reported that the

charged officer has not involved in the alleged loss of money and he was discharged from the Criminal case.

The Collector, Visakhapatnam District has reported that the charged officer has not involved in the alleged loss of money and he was discharged from Criminal case.

13. Sri. P.Surya Rao, former Sr.Asst, Revenue Dept.,

14. Sri. B.Chandrasekhar Rao, former Sr.Asst. Revenue Dept.,

CO held not proved. The Co has filed

O.A.No.5679/2005 and

the hon'ble Tribunal

directed to pass final orders. The matter was examined and decided to drop further action against the CO.

COI submitted report

holding that the charge framed against him not proved.

COI submitted report

holding that the charge framed against him not proved.

2. It is seen from the above that as against V. Sarma Rao, IAS (retired), formerly Commissioner, Social Welfare, the State has decided to impose a penalty of 50% cut in pension and gratuity. The

proposal to this effect has been submitted to the central government way back on 21.5.2010 but the central government has not issued any order so far.

3. The Chief Secretary, Government of Andhra Pradesh shall send the reminder to the Government of India for expediting the order in respect of the above. We expect the Government of India to do the needful expeditiously.

4. As regards K. Sukhender Reddy, IAS, former J.S. to Government, I&CAD Department, it transpires that the matter is pending before the High Court of Andhra Pradesh in Writ Petition (C) No. 19111 of 2011. Since the matter is pending before the High Court for about 12 years, we

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request the High Court to expedite the hearing of writ petition (C) No. 19111 of 2001.

5. In respect of D. Parthasarathy, Formerly Assistant Secretary to Government, I&CAD Department, P. Viswswara Rao, formerly Section Officer, I&CAD Department and M. Subhan Khan, Assistant Section Officer, I&CAD Department, the annexure I appended to the affidavit states that with regard to them the report of the COI is awaited. The concerned COI is expected to conclude the inquiry expeditiously.

6. The disciplinary action against Anitha Rajendra, IAS, and B.R.S. Prasad, former Sr. Assistant, Revenue Department have been dropped as in the inquiry, the charges against them were not found to be proved.

7. The action against M. Leela, former Deputy Tahsildar, Revenue Department has also been dropped on the basis of report of CCLA.

8. The criminal case against A. Krishna Rao, (Retd.), former Special Tahsildar, Revenue Department is closed as he was discharged from that case. So is the case of B. Ammaji Rao (Retd.), former Special Tahsildar, Revenue Department.

9. Further action against S. Chinnayya Chari, Former Tahsildar, Revenue Department has also been dropped as in the inquiry report, the charge was held to be not proved.

10. As regards P. Surya Rao and B. Chandrasekhar Rao, both former Sr.

Assistant, Revenue Department, the charges against them have not been proved but no final decision has been taken by the government with regard to them. The state government should take a final call in respect of them without any delay.

11. As regards criminal cases, it appears that the District & Sessions Judge,

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Visakhapatnam filed 9 complaints in CC Nos.

74-82 of 2000 against 6 of the 15 persons identified by the CID and discharged the other 9 accused. Against the order of discharge, CID preferred Criminal Appeal No. 1769 of 2000 before the High Court of Andhra Pradesh. The 6 accused have also filed separate criminal appeal being Criminal Appeal Nos. 1658 to 1665 of 2000.

These criminal appeals are reported to be pending before the High Court of Andhra Pradesh. We request the High Court to hear and decide these criminal appeals at the earliest.

12. Some more criminal appeals arising from the complaints filed by the District & Sessions Judge, Visakhapatnam being Criminal Appeal Nos. 971 of 1999, 587 of 1999 and 907 of 1999 are pending before the High Court of Andhra Pradesh.

13. We request the High Court to hear and decide the above criminal appeals as expeditiously as may be possible and preferably within six months from the date of receipt of copy of this order as the appeals are already pending for about 14 years.

14. The District & Sessions Judge,

Visakhapatnam shall expedite the inquiry in CrI.M.P. No.130 of 1998 (which relates to O.P. No. 15 of 1990 on the file of Sub-Judge, Anakapalli) expeditiously.

15. As regards land acquisition matters, it is stated that 782 land acquisition appeals have been filed before the High Court of Andhra Pradesh. Of the 782 acquisition appeals, 121 appeals have been heard and judgment is reserved.

16. The counter-affidavit has been filed by the Government of Andhra Pradesh on 8.7.2013. It may be possible that by this time, the High Court has pronounced the judgment

in the 121 land acquisition appeals. If the judgment in those appeals have not been pronounced, we expect that to

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be pronounced soon. As regards remaining appeals, we request the High Court to bear and decide them as expeditiously as may be possible.

17. Certain special leave petitions are pending before this Court, some at the instance of government and 4 at the instance of the claimants. The Registrar (J-II) of this Court will take appropriate directions from Hon'ble the Chief Justice and if these matters are ripe for hearing, the same may be posted for hearing as per the direction of Hon'ble the Chief Justice.

18. The fresh status report shall be filed by the Government of Andhra Pradesh on 15.1.2014.

4. In pursuance of the above direction, an affidavit has been filed by the Government of Andhra Pradesh giving the latest status of the action taken in various proceedings (criminal and civil) and also disciplinary proceedings against the government officials and the members/staff of the subordinate judiciary involved in the scam.

In the affidavit filed on 10.1.2014, the State Government has asserted that no real culprit has been allowed to go scot free and those officers involved have been identified and action has been

initiated against them. It is stated that

disciplinary action has been initiated against 21 government employees besides one Sub-Judge, one

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Government Pleader and five judicial staff from among whom punishment has already been imposed on six officials and the Judicial Officer has been dismissed from service.

5. In annexure-I, annexed with the affidavit, against

the stage of disciplinary action government employees involved in Yeleru Scam has been mentioned which is as follows:

#### STAGE OF DISCIPLINARY ACTION AGAINST GOVERNMENT EMPLOYEES INVOLVED IN YELERU SCAM

of Officer 1. Sri V.Sarma Rao., IAS., (Retd) formerly Commissioner, Social welfare

Sl.No Name & Designation Stage of the disciplinary Case

Disciplinary proceedings initiated against the

Member of Service by framing charges under AIS (D&A) Rules 1969, vide G.O.Rt.No.1242,G.A.

(SC.D)Dept., dated

30.03.2000 for the

irregularities committed by him, while working as Commissioner of Social Welfare A.P., Hyderabad. Enquiry conducted, Government

after due procedures

decide to impose a penalty of "50% cut in pension and gratuity" against the members of service. According proposals were submitted to Government of India vide Lr.No.72/Sc.D/A3/1998-53, dt:21.05.2010. Orders of the Govt., of India are awaited. Reminded on 20.12.2013

2. 1) Sri. K. For the irregularities  
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Sukhender Reddy, allegedly committed by IAS (Retd) the officials of I&CAD formerly J.S. Dept., in payment of to Govt., I&CAD compensation in Dept., acquisition of lands to  
3)  
4)  
5)  
final  
dated

Sri.D.

Parthasarathy, Asst. Secy., (Retd) I&CAD Dept.,  
Sri P

Visweswara rao., former Section Officer, I&CAD Dept.,  
Sri. M. Subhan khan, former  
Asst. Section

Officer, I&CAD Dept.,  
the Yeluru Reservoir  
Project, departmental  
action was initiated

against the officials of I & CAD Department. After examining the WSDs of the

A. On the charges were  
entrusted to the  
inquiring Authority Dr.

C. S. Rangachari, (COI) to conduct common enquiry.

Sri K. Sukkhendar Reddy,  
IAS (Retd.) filed O.A. No.1010/2000 before the CAT, Hyderabad Bench,  
challenging the  
disciplinary proceedings.

The Tribunal in its  
orders

10.08.2001

quashed the Charge Memo in respect of Sri K.

Sukhendar Reddy, IAS

(Retd.) Government filed W.P.No.19111/2001 before

the Hon'ble High Court challenging the CAT orders. The Hon'ble High Court in its orders directed the Government not to proceed with the enquiry against Sri K. Sukhendar Reddy, IAS (Retd.) pending further orders.

The Chairman,

Commissionerate of Inquires, has stated that the enquiry in this case was postponed until further orders in view of the High Court orders in case of Sri K. Sukhendar Reddy, IAS(Retd.) and

that in view of the request made by the

counsel for other three Charged Officers, to the effect that the enquiry 12

into the charges against them may also be kept in abeyance and resumed as and when the stay is vacated. Presenting

Officer had also agreed for the request and therefore requested that when ever the W.P. in the other matter is finally disposed off or the

ground for conducting the Inquiry in this matter is cleared, the case may be re-entrusted afresh.

Government after careful examination of the matter decided to proceed with the enquiry against the rest of the Charged Officers and accordingly, orders issued appointing Dr. Premchand, IAS(Retd.)

Member, Commissioneate of Inquires, General Administration

Department, as the

Inquiring Authority to

Inquire into the charges framed against Sarvasri

D. Parthasarathy, the

then Asst. Secretary to Govt.(Retd.),

P. Visweswararao, the

then Section Officer

(Retd.) and M.Subhan

Khan, the then Asst.

Section Officer of

Irrigation and CAD

Department, now Deputy

Secretary to Government in accordance with the procedure laid down in the A.P.C.S. (CC&A) Rules 1991. The Inquiry report is awaited.

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Sri N.Seshagri Withholding 100% pension Rao Executive Engineer (Retd)

YRC Division,

Peddapuram,

I&CAD Department

Smt. Anitha COI Conducted Enquiry and

Rajendran, IAS submitted enquiry report

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former Revenue Divisional officer, Revenue Dept.,

holding that charges

framed against the C.O. is not held proved.

Accordingly further action was Dropped. Vide Memo No.6186/Vig.III(1)/2001-47 Revenue Dept., dt. 2.3.2002

8.

Sr. B.R.S. Prasad, former Sr.Asst. Revenue Dept., COI Conducted Enquiry and submitted enquiry report holding that charges framed against the C.O. is not held proved.

Accordingly, further action was Dropped. Vide Memo No.6186/Vig.III(1)/2001-50, Revenue Dept.,

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10.

11.

Smt. M.Leela, former Dy. Tahsildar, Revenue Dept., Sri A. Krishna Rao, (Retd) former Spl. Tahsildar, Revenue Dept.,

Sri B.Ammaji Rao, (retd) former Spl. Tahsildar, Revenue Dept., Dt.30.12.2002.

Further action was dropped based on report of CCLA.

The proposal from the Collector, Visakhapatnam was received by the Govt., on 16.05.2000 for initiating disciplinary action against him. Sri

A. Krishna Rao, worked as Spl Tahr. LA during the period from 23.08.94 to 14.03.95 and retired from service on 31.08.96. The occurrence of delinquency was on 14.03.95.

No

charges were framed till receipt of the proposal

i. e., 16.05.2000. the

four period stipulated under 9(2)(b) of APRP Rules, 1980 was expired by 13.03.1999 i.e. before receipt of the proposal itself by the Govt. Orders in circulation were passed for dropping further action on

07.06.2000. The Collector,

VSP, has been requested vide Govt. Memo No. 6186- A/vig.III(1)/2001-34 dt:09.10.01 to 14

take action as per para 5 of G.O.Rt.No. 1097, Fin(Pen.I)Dept.Dt.22.06.2000 and to send a detailed report. The Collector,

Visakhapatnam dist. Vide his lr.dt.15.03.2012 has reported that the charged officer has not involved in the alleged loss of money and he was discharged from Criminal case.

The proposal from the Collector, Visakhapatnam

was received by the

Govt., on 16.05.2000 for initiating disciplinary

action against Sri

B. Ammaji Rao, who worked as Spl.Tahsildar, L.A in Revenue Division Narsipatnam from 6.4.1994 to 9.3.1996. He retired from service on 31.08.1998. The occurrence of the delinquency was on 9.3.1996. the 4 years period as stipulated under 9(2) (b) of APRP Rules, 1980 expired by 8.2.2000 i.e., before receipt of the proposal it self by the Govt. orders in circulation was passed for dropping further action on 7.6.2000. the Collector, VSP dist. Has been requested vide Govt. Memo No.6186-/Vig.III(1)/2001- 34, Dt.9.10.2001 to take action as per para 5 of G.O.Rt.No.1097,Fin(Pen.I) Dept Dt.22.06.2000 and to send a detailed report. The Collector, Visakhapatnam dist. Vide his lr.dt.15.03.2012 has reported that the charged 15

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- 13.
- 14.
- 15.

Sri. S.Chinnayya Chari, former Tahsildar, Revenue Dept.,  
Sri. P.Surya Rao, former Sr.Asst, Revenue Dept.,  
Sri.

B.Chandrasekhar Rao, former Sr.Asst. Revenue Dept.,  
Sri. P.Swamy, formerly, senior Civil Judge Anakapalli, Law Dept., officer has not involved in the alleged loss of money and he was discharged from Criminal case  
Submitted that, COI submitted enquiry report holding that the charge framed against CO held not proved. The Co has filed O.A.No.5689/2005 and the Hon'ble Tribunal directed to pass final orders. The matter was examined and decided to drop further action against the CO.  
Accordingly orders were issued vide G.O.Rt.No.167, Rev (Vig.III) Dept dt.19.01.2006.  
COI submitted report holding that the charge framed against him not proved.

COI submitted report  
holding that the charge framed against him not proved.  
Dismissal from service.

16. Sri. Lova Raju, Dismissal from service.

Junior

Assistant, Sub Court

Anakapalli, Law Dept.,

17. Sri. Compulsory retirement.

S.Viswanadham,

Junior Asst, Sub Court

Anakapalli, Law Dept.,

18. Sri. Holding of pension since

L.A.Narasimha retired.

Murthy,

Sheristadar, Sub Court

Anakapalli, Law

Compulsory retirement.

Reversion cadre.

her

lower

to

Compulsory retirement

Dept.,

19. Sri. I. Ramalingeswara Swamy, Junior Asst., Sub Court Chodavaram, Law Dept.,

20. Smt K.

Kalavathi,

Junior Asst.,

Sub Court Chodavaram, Law Dept.,

21. Sri. U. Varahala Raju, junior Assistant, Principal Junior Civil Judge's Court

Visakhapatnam, Law Department

the details have been  
under Section 340

High  
of the land the Andhra

6.  
given  
Cr.P.C  
land

In annexure-II,  
about the enquiries

In annexure-III, statement of pending acquisition cases in Andhra Pradesh  
Court has been given.

7. In the affidavit, the details  
acquisition matters allowed by  
have

Pradesh High Court, amounts which are due from the claimants and the details of the  
restitution petitions which are still pending on the file of the Sub-Court, Anakapalli,  
Visakhapatnam

1/31/2017 court.nic.in/supremecourt/temp/ac 648905p.txt  
been indicated. Details have also been given  
about various restitution petitions which have  
been allowed by the Andhra Pradesh High Court

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directing the claimants to re-deposit the  
amounts withdrawn by them with 12% interest from  
the date of receipt of the amounts till  
realization.

8. The claimants did not re-deposit the  
amounts and as such the Collector, Visakhapatnam  
directed the MRO, Anakapalli to recover the same  
under Revenue Recovery Act. In some matters,  
after execution petitions have been allowed,  
notices were issued to auction the properties but  
the same could not be carried further in view of  
the stay order passed by the High Court.

9. We have carefully considered the status  
report submitted by the Government of Andhra  
Pradesh. We are satisfied that the matter need  
not remain pending before this Court any more.

10. Civil Appeal is, accordingly, disposed of.  
The State shall take all pending proceedings to their logical conclusion. No costs.  
CIVIL APPEAL NOS. 6486-6487 OF 2005:

In view of order passed today in Civil  
Appeal No. 6489 of 2005, nothing remains to be

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decided in these appeals. Civil Appeal are disposed of. No costs.

J.

(R.M. LODHA)

J.

14/15

(SHIVA KIRTI SINGH) <http://courtnic.nic.in/supremecourt/temp/ac%20648905p.txt>

NEW DELHI;

APRIL 2, 2014.

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