



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3558]

THURSDAY, THE SIXTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY

THE HONOURABLE SRI JUSTICE TUHIN KUMAR GEDELA

WRIT PETITION NO: 6896/2006

Between:

1. COMMISSIONER & DIRECTOR OF AGRICULTURE,, ANDHRA
PRADESH, HYDERABAD

...PETITIONER

AND

1. SRI M V V SATYANARAYANA, Working as Agil Office (soil Testing
Laboratory) Ramapachodavaram, East Godavari district

...RESPONDENT

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 an appropriate Writ or direction more particularly one in the nature of Writ of Certiorari "Calling for the records connected with order dated 23-11-2005 in O.A. No. 6637 of 2005 on the file of the Hon'ble APAT., Hyderabad and to quash the same as erroneous and contrary to law and pass such other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

IA NO: 1 OF 2006 (WPMP 8858 OF 2006)

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 suspend the operation of the order dated 23-11-2005 in O.A. No. 6637 of 2005 on the file of the Hon'ble APAT., Hyderabad

Counsel for the Petitioner:

1.GP FOR SERVICES II

Counsel for the Respondent:

1.K R SRINIVAS

The Court made the following:

ORDER: (Per Hon'ble Sri Justice Tuhin Kumar Gedela)

Challenging the Order dated 23.11.2005 passed in O.A.No.6637 of 2005 on the file of the A.P. Administrative Tribunal, Hyderabad (hereinafter referred to as "the Tribunal"), whereby the Tribunal has set aside the order imposing punishment against the respondent in the departmental enquiry that was conducted against him, the present writ petition has been filed.

2. Heard learned Government Pleader for Services-II, for the petitioner and Sri K.R.Srinivas, learned counsel for the respondent.

3. The respondent is an employee working as Agricultural Officer in Rampachodavaram of East Godavari district. The soil testing laboratory of the Agriculture department is in his control. On the charge that he has sold away the neem oil seeds through a private dealer, disciplinary proceedings are initiated against him and departmental enquiry was ordered. Before conducting a departmental enquiry, a preliminary enquiry was ordered and preliminary report was submitted dated 04.07.2002, wherein it is held that, he has committed an act of misconduct by selling the neem oil seeds through a private agent. Based on the said preliminary report and other material, the regular departmental enquiry was ordered. The enquiry officer and the presenting officer were appointed. The enquiry officer, after recording the statements of the delinquent employee and the witnesses, passed an order finding him guilty of the said act of misconduct. Considering the said enquiry report, punishment of reduction in rank is imposed against him.

4. Aggrieved by the said order of punishment dated 04.10.2005, he has approached the Tribunal challenging the said order of imposing punishment against him. The main challenge before the Tribunal was that a copy of the preliminary report based on which the regular enquiry was ordered was not supplied to the respondent herein and that proper enquiry as required under Rule 20 of CCA & Conduct Rules (for short "the Rules") is not conducted. The Tribunal found that as the copy of the preliminary report was

not supplied to the delinquent employee that it vitiated the enquiry and the Tribunal also found that the procedure prescribed for conducting the enquiry is not adhered and it also vitiated the findings of the enquiry officer and the punishment imposed on the report given by him is not valid.

5. It is not disputed before us that a preliminary enquiry was ordered relating to the alleged act of misconduct against the respondent and based on the said preliminary report, a regular departmental enquiry was ordered against him. Therefore, when the enquiry was ordered based on the preliminary report and when it also forms part of the material based on which the enquiry was ordered, the law requires the disciplinary authority to supply a copy of the said preliminary report to the delinquent employee to enable him to answer the charge properly. Rule 20 of the Rules, deals with the procedure for imposing penalties. The opening part of the rule itself says that “no order imposing any of the penalties specified in Clauses (vi) to (x) of Rule 9 shall be made except after an inquiry held in the manner provided in this rule and Rule 21 or in the manner provided by Andhra Pradesh Civil Services (Disciplinary Proceedings Tribunal) Act, 1960 or the A.P. Lokayukta or Upa-Lokayukta Act, 1983, where such inquiry is held under the said Acts”.

6. Therefore, it is now evident from Rule 20 that adhering to the procedure prescribed under rule for conducting enquiry is mandatory. Now it is relevant to consider Clause 4 of Rule 20, which mandates that the disciplinary authority shall deliver or cause to be deliver to the Government servant a copy of list of documents and witnesses by which each article of charge is proposed to be sustained along with the article of charge, the statement of imputations of misconduct or misbehavior. The expression “list of documents” takes within its fold all the documents that are relied upon by the disciplinary authority to order for enquiry against the Government servant. As can be seen from the charges that are leveled against the officer, it is evident that a preliminary enquiry was made as basis along with other material to order for enquiry. When that be the case, the preliminary enquiry report which is made as basis

along with other material to order for enquiry, the disciplinary authority shall supply the copy of the said preliminary enquiry report also to the officer to enable him to properly answer the charges that are leveled against him. Failure to supply any such material document based on which the enquiry was ordered vitiates the enquiry and it will also deprive the officer of his right to be defended properly in the said enquiry and to answer the charges leveled against him. It also amounts to contravening the mandatory requirement and the procedure contemplated under Clause 4 of Rule 20 of the Rules.

7. The adverse effect of non-supply of relevant documents to the Officer facing the enquiry has been dealt with by the Apex Court in ***Kashinath Dikshita v. Union of India***¹. In the said case, copies of the documents as well as the statements of the witnesses recorded in the preliminary enquiry were not supplied to the Officer facing the enquiry. Considering the said lapse on the part of the enquiry Officer, the Supreme Court has clearly dealt with the rationale for the rule requiring supply of copies of the documents, sought to be relied on by the authorities to prove the charges levelled against the Government servant. Ultimately, the Apex Court held that it vitiates the enquiry.

Considering the said ratio laid by the Apex Court in ***Kashinath Dikshita*** case (1 supra), again the Supreme Court in the case of ***State of Uttar Pradesh and others v. Saroj Kumar Sinha***², held at para 37 that the opinion and the observations made in ***Kashinath Dikshita*** case (1 supra) are relating to non-disclosure of the documents having a potential to cause prejudice to a Government servant in the enquiry proceedings would clearly be denied of a reasonable opportunity to submit a plausible and effective rebuttal to the charges being enquired into against the Government servant. Even in the case of ***Tirlok Nath v. Union of India***³, the Supreme Court took the same

¹ (1986) 3 Supreme Court Cases 229

² (2010) 2 Supreme Court Cases 772

³ 1967 SLR 759 (SC)

view that non-supply of the documents amounts to denial of reasonable opportunity to the Government servant and it would cause prejudice to the Officer facing the enquiry.

8. Further, Clause 10 of Rule 20 of the Rules prescribes the full procedure for conducting the enquiry for the purpose of proving the charges leveled against the officer. It clearly mandates that the evidence is to be adduced to substantiate the charges against the officer and oral and documentary evidence is to be adduced and the evidence shall be recorded on day to day basis and the witnesses shall be examined by or on behalf of presenting officer and they may be cross-examined by or on behalf of the Government servant. In the instant case, the witnesses are not examined and no opportunity was given to the delinquent officer to cross-examine the said witnesses. Their statements are only recorded and based on the said statements, the enquiry was concluded and the delinquent officer was found guilty and a final report was given. Therefore, the enquiry was not conducted as contemplated under Rule 20. As noticed supra, no order of penalty can be passed without conducting an enquiry in the manner provided in Rule 20. As the penalty was imposed in the instant case without conducting proper enquiry in the manner provided in the Rules, the entire enquiry is vitiated for non-compliance with the procedure contemplated under law.

9. After pointing out the said glaring defects in the order imposing the penalty against the officer, the Tribunal found that the enquiry was not properly conducted as required under Rules and thereby has set aside the said order. Upon considering the material on record as we also found that the enquiry was not properly conducted as required under Rule 20 of the Rules, we do not find any legal flaw or infirmity in the impugned order of the Tribunal. Therefore, it absolutely warrants no interference and the writ petition is devoid of merit and is liable to be dismissed.

10. Therefore, the Writ Petition is dismissed, confirming the order of the Tribunal. There shall be no order as to costs.

11. As a sequel, Miscellaneous Applications pending, if any, shall stand closed.

CHEEKATI MANAVENDRANATH ROY, J

TUHIN KUMAR GEDELA, J

Date : 06-11-2025
BMS