

Chippala Gopiraju vs The State Of Andhra Pradesh on 12 February, 2025

APHC010059302025

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI [3331]
(Special Original Jurisdiction)

WEDNESDAY, THE TWELFTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE SUBBA REDDY SATTI

WRIT PETITION NO: 3373/2025

Between:

1. CHIPPALA GOPIRAJU, S/O. CHIPPALA VIGNESWARA RAO AGED ABOUT 32 YEARS, OCC. GOVT. SCHOOL TEACHER (SECONDARY GRADE) AT MPP SCHOOL AT GHATI THANDA VILLAGE, BOLLAPALLI MANDAL, PALNADU DISTRICT. PERMANENT R/O. H.NO. 6-146, VARMAPURAM, KOTTHAPALEM, NIZAMPATNAM, KUCHINAPUDI, GUNTUR DISTRICT- 522262.

...PETITIONER

AND

1. THE STATE OF ANDHRA PRADESH, REP. BY ITS PRINCIPAL SECRETARY, DEPARTMENT OF SCHOOL EDUCATION, SECRETARIAT, VELAGAPUDI, AMARAVATI, ANDHRA PRADESH.
2. THE COMMISSIONER OF SCHOOL EDUCATION, GOVT, OF ANDHRA PRADESH, 4TH FLOOR, B BLOCK, VTPS ROAD, BHIMARAJU GUTTA, IBRAHIMPATNAM, ANDHRA PRADESH - 521456.
3. THE REGIONAL JOINT DIRECTOR OF SCHOOL EDUCATION, ZONE III, GUNTUR, GUNTUR DISTRICT. ANDHRA PRADESH 522002.
4. THE DISTRICT COLLECTOR, PALNADU DISTRICT.
5. THE DISTRICT SCHOOL EDUCATIONAL OFFICER, PALNADU, GUNTUR DISTRICT, ANDHRA PRADESH.
6. THE MANDAL EDUCATION OFFICER, BOLLAPALLI MANDAL,

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GUNTUR DISTRICT

7. THE STATION HOUSE OFFICER, ADAVULADEEVI PS,
DISTRICT.

BAPATLA

8. THE SUBINSPECTOR OF POLICE, NIZAMPATNAM PS, BAPATLA
DISTRICT.

...RESPONDENT(S):

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, order or direction more particularly one in the nature of mandamus, declaring the action of 5th respondent in placing the Writ petitioner under suspension for indefinite period while he was on approved leave, that to without issuing any show cause notice or seeking an explanation, vide impugned proceedings No. Rc.No.2986/B1/2024 dated 22-10-2024 as being illegal. arbitrary and in violation of Articles 14, 16, 21 and 19(1)(g) of the Constitution of India and in violation of principles of Natural Justice, and consequently to set-aside the proceedings vide Rc.No.2986/B1/2024 dated 22-10-2024 issued by the 5th Respondent herein and pass

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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 impugned proceedings vide Rc.No.2986/B1/2024 dated 22-10-2024 issued by 5th Respondent herein, by continuing the Petitioner in the same capacity with immediate effect pending disposal of the Writ Petition and pass

Counsel for the Petitioner:

1. MOHAMMAD GHALIB SHAHID

Counsel for the Respondent(S):

1. GP FOR SERVICES III

2. GP FOR SERVICES I

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The Court made the following:

:: ORDER :

:

Impugning the proceedings issued by the District School Educational Officer - respondent No.5 vide Rc.No.2986/B1/2024, dated 22.10.2024 (Ex.P1), whereby suspending the petitioner by exercising the powers conferred under Rule 8 (1) of the Andhra Pradesh Civil Services (CC&A) Rules, 1991, the above writ petition is filed.

2. Heard Sri Mohammad Ghalib Shahid, learned counsel for the petitioner and Sri Sarath, learned Assistant Government Pleader for Services - II appeared for the respondents.

3. The petitioner, working as a Secondary Grade Teacher at Mandal Praja Parishad School, Ghati Thanda Village, Bollapalli Mandal, Palnadu District, was placed under suspension by the proceedings impugned vide Ex.P1. The wife of the petitioner complained and the same was registered as a case in Cr.No.100 of 2024 of Adavuladeevi Police Station, Bapatla District, for the offence punishable under Sections 85 BNS and Section 3 & 4 of D.P.Act against the petitioner. The police, by letter dated 18.10.2024, informed about the registration of crime against the petitioner to respondent No.5. Based on the said information, respondent No.5, issued the proceedings impugned in the writ petition and placed the petitioner under suspension.

4. In the proceedings impugned, it was mentioned that a case was registered against the petitioner for the offence punishable under Sections 87, 75 BNS and Sections 3 & 4 of DP Act. In fact, a perusal of Ex.P2 - FIR and Ex.P3 - order in CrI.P.No.6940 of 2024 filed along with the writ petition, the case registered against the petitioner, is for the offence punishable under Sections 85 BNS and Section 3 & 4 of DP Act.

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5. The Division Bench of composite High Court in P.Rajender v. Union of India and another 1, considered the suspension of an employee, where a case was registered under Sections 494 and 498-A of IPC and eventually set aside the proceedings therein. In para No.20 of the judgment, the Division Bench observed as follows:

"There is lot of difference between a case where the Government servant is charged with allegations of corruption and misuse of official position and where an employee is charged of offences in relation to a private dispute."

6. The Division Bench, in para No.32, further observed as follows:

"Having regard to the facts and circumstances of this case and keeping in view the attitude of the respondents, we are of the opinion that the petitioner need not be kept under suspension any further. Although this Court, while exercising the jurisdiction under Article 226 of the Constitution of India, may not ordinarily interfere in such matters, but, having regard to the peculiar facts and circumstances of this case and keeping in view the conclusions arrived at, we are of the opinion that it is a fit case where this Court should interfere in the matter."

7. In the case at hand, as narrated supra, the police registered a case for the offence punishable under Section 85 BNS and the petitioner filed a criminal petition No.6940 of 2024. The Coordinate Bench of this Court disposed of the criminal petition, directing the police to comply with Section 35(3) of BNSS scrupulously. In the suspension proceedings, it was mentioned that a case was registered against the petitioner for the offence punishable under Sections 87, 75 BNS and Sections 3 & 4 of DP Act and in fact, it is contrary to the Section mentioned in FIR (Ex.P2).

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8. This Court is conscious that the jurisdiction under Article 226 of the Constitution of India, there are no fetters, however, such discretion has to be exercised within the self-imposed limitation. Before passing the order of the suspension, the disciplinary authority should have considered, whether the suspension is warranted or not. The authority believes that there is a strong prima facie case against the delinquent, and if the charge stands proven, would warrant the imposition of major punishment i.e. Removal of service in such a case, the suspension order can be passed. The suspension must be a step in aid to the ultimate result of the investigation or inquiry. However, in the case at hand, the suspension was made on registering a crime by the police upon a complaint made by the wife of the petitioner. Thus, the suspension isn't warranted in the case. The proceedings impugned are liable to be set aside.

9. Given the facts and circumstances of the case, the Writ petition is allowed by setting aside the proceedings issued by the District School Educational Officer - respondent No.5 vide Rc.No.2986/B1/2024, dated 22.10.2024 (Ex.P1).

However, this order will not preclude the authorities from proceeding with the departmental inquiry, if any, in accordance with, the Rules. No order as to costs.

As a sequel, pending miscellaneous petitions, if any, shall stand closed.

JUSTICE SUBBA REDDY SATTI Date : 12.02.2025 TVN
SRS,J THE HON'BLE SRI JUSTICE SUBBA REDDY SATTI WRIT PETITION No.3373 OF 2025
Date : 12.02.2025 TVN