

APHC010768262013



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

[3529]

_____,THE _____ DAY OF MARCH
TWO THOUSAND AND TWENTY SIX

PRESENT**THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO****THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR****WRIT PETITION NO: 30701/2013****Between:**

1.N.VIJAYA BABU,, S/O N.V.SUBBA RAO, OCC: PRL. JUNIOR CIVIL
JUDGE, PRODDATUR, YSR DISTRICT.

...PETITIONER**AND**

1.THE HONBLE HIGH COURT OF A P, Rep. by its Registrar (Vigilance),
Hyderabad.

...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 toto issue an appropriate Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the adverse entry made against petitioner in the Confidential Report of the year, 2009 which was communicated through proceedings in ROC.No.678012011- B.SPL, dated 31-10-2011 and the consequential rejection of petitioner application for review of the adverse entry in petitioner Confidential Report of the year, 2009 the proceedings in Roc.No.1468/2013-B SP dated 19-02-2013 issued by the respo arbitrary, illegal and violative of the fundamental rights guaranteed to petitioner under Articles 14 and 21 of the Constitution of India and set aside the same and pass

IA NO: 1 OF 2013(WPMP 38117 OF 2013)

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 adverse entry made against petitioner in the Confidential Report of the year, 2009 which was communicated through proceedings ROC.No.6780/2011 -B.SPL, dated 31-10-2011 and the consequential rejection of petitioner application for review of the adverse entry in petitioner Confidential Report of the year, 2009 through the proceedings in ROC.No.1468/2013-B.SPL, dated 19-02-2013 issued by the respondent, pending disposal of the above Writ Petition and pass

Counsel for the Petitioner:

1.V R REDDY KOVVURI

Counsel for the Respondent:

1.VENKATESWARLU POSANI

Date of Reserved : 02.03.2026

Date of Pronouncement :

Date of Upload :

The Court made the following Order:*(per Hon'ble Sri Justice R. Raghunandan Rao)*

Heard Sri V.R. Reddy Kovvuri, learned counsel, appearing for the petitioner and Sri Venkateswaralu Posani, learned Standing Counsel, appearing for the respondents.

2. The petitioner herein had been appointed as a Junior Civil Judge, in year 2008, and had worked at various locations within the erstwhile State of Andhra Pradesh as well as the present State of Andhra Pradesh. The petitioner had received his Annual Confidential Report for the year 2009 in the month of November, 2011 from the High Court of Andhra Pradesh. In this Annual Confidential Report, the work of the petitioner, as Junior Civil Judge, Huzurnagar, Nalgonda was described to be average and that the petitioner's integrity was doubtful and he was erratic in judicial approach. After receiving this report, the petitioner submitted a representation, dated 21.11.2011, to the Registrar Vigilance, of the Hon'ble High Court of Andhra Pradesh, to furnish him with the material on which the Annual Confidential Report had been prepared. In reply to this representation, the Registrar Vigilance, by his proceedings, dated 23.01.2012, furnished the material placed before the Committee of the Hon'ble Judges for preparation of the Annual Confidential Report for the year 2009. The material furnished to the petitioner contained the work review statements for the year 2009 and the Confidential Reports submitted by the Principal District Judge, Nalgonda along with two enquiries,

which were pending against the petitioner, as on that date. These enquiries came to be dropped by proceedings dated 03.08.2012 and 20.06.2012. After these proceedings had been dropped, the petitioner made a representation, dated 21.09.2012, for a review of the observations, made against him, in the Annual Confidential Report of 2009. This request was rejected, by proceedings dated 19.02.2013.

3. The petitioner, after receiving this order of rejection, had again made a representation, dated 15.03.2013, seeking the reasons why the application for review was rejected. The Registrar, Vigilance by his communication, dated 19.08.2013 sent the following to the petitioner.

"the reasons for rejection of expunction of adverse remarks noted in the Annual Confidential Reports for the year, 2009 recorded by one of the Hon'ble Judges of the High Court as requested by you. "When I wrote the CR of the officer, two Dis.cases were pending, of which one related to the conduct of the officer touching his integrity. It is a different matter that the officer was exonerated in the Dis. Proceedings. My discreet enquiries with the then District Judge also made me form my opinion as expressed in the CR. As is the normal case, more often, there cannot be direct evidence or definite material to prove or substantiate the opinions expressed in the CRs on the integrity of the officers."

4. The petitioner has now approached this Court for declaring that the adverse entry made in the Confidential Report of the petitioner, for the

year 2009 was arbitrary, illegal and violative of the fundamental rights guaranteed under Articles 14 and 21 of the Constitution of India and to set aside the same.

5. The case of the petitioner is that the Confidential Report of 2009, came to be prepared on the basis of the pending enquiries against the petitioner. Once these enquiries had been contested, on merits, and had been dropped by the Hon'ble High Court, the said entries cannot continue and the reasons for rejecting the review application of the petitioner are not tenable. The petitioner contends that once the enquiries had resulted in the exoneration of the petitioner, there could not be any further doubts on his integrity and that the Hon'ble Judge of the High Court could not have depended on a discreet enquiry to observe that the integrity of the petitioner was doubtful.

6. Sri V. R. Reddy Kovvuri, learned counsel appearing for the petitioner, contends that a discreet enquiry cannot form the basis on which an adverse remark is recorded against any judicial officer while preparing his Annual Confidential Reports. The learned counsel relies upon the following judgments:

- 1) Registrar General, High Court of Patna vs Pandey Gajendra Prasad and Ors.¹

¹ (2012) 6 SCC 357

2) High Court of Judicature at Allahabad vs. Sarnam Singh and Another.²

3) High Court of Punjab & Haryana vs. Ishwar Chand and Another.³

4) Barkha Gupta vs. High Court of Delhi.⁴

7. The learned counsel, could not draw the attention of this Court, to any observation, in the judgments of the Hon'ble Supreme Court, which was to the effect that discreet enquiries cannot be the basis for any entry in the Annual Confidential Report.

8. In the judgment of the Hon'ble High Court of Delhi, the issue that had come up before the Hon'ble High Court was whether the discreet enquires conducted for a subsequent period can be the basis for making adverse entries in the Annual Confidential Report of a Judicial Officer, for an earlier period of time and without consulting the inspecting Judge, who had formed an opinion for the earlier years. On the question of whether the discreet enquiry could be the basis for such entries in the Annual Confidential Report, the Hon'ble High Court had held as follows:

60. How should "discreet inquiries" be made? There are two aspects to this question. Firstly, the period of time for which discreet inquiries should be made and, secondly, the manner of making discreet inquiries.

² (2000) 2 SCC 339

³ (1999) 4 SCC 579

⁴ 2006 SCC Online Del 1595; (2007) 136 DLT 119(DB)

61. We are of the opinion that discreet inquiries should be made over a suitable period of time. An inquiry into matters pertaining to the integrity of a judicial officer, which may have the effect of permanently damaging her career and reputation, must not be a one-off affair. What we find in the present case is that two separate Committees made discreet enquiries about the integrity of the Petitioner. On the first occasion, the Administrative Committee took a decision on 12th December, 2000 to refer the case of the Petitioner to a Special Committee. It is not clear when actually the reference was made but the Special Committee met on 8th February, 2001 and noted that discreet enquiries have confirmed that there is substance in the allegations that the Petitioner does not enjoy a good reputation about integrity. It appears that the discreet enquiries were made over a period of a little less than two months. On the second occasion, discreet enquiries were made pursuant to the decision of the Full Court taken on 1st August, 2002 and the minutes of the Committee were recorded on 24th October, 2002 to the effect that the discreet enquiries about the integrity of the Petitioner show that she does not enjoy a good reputation. On this occasion, discreet enquiries were made over a period of a little less than three months.

62. How long should the discreet inquiries last are 60 days or 90 days not enough? It is not possible to give any definitive answer. Theoretically, discreet enquiries can even be made over a period of one day but is that all right? Maybe yes, in a given case. But so far as this case is concerned, we have not been told either the time period or the frequency of the discreet enquiries. It is quite possible that the discreet enquiries were limited to a few telephone calls. We have been left groping in the dark and are a little unhappy at the lack of transparency in the procedure adopted by both the Committees. It would have, in our opinion, been a far more healthier procedure to adopt if some sort of a record was maintained showing the different (even approximate) dates when the discreet enquiries were made and from the categories of persons such as members of the Bar,

colleagues of the judicial officer, other learned Judges or the administrative staff of the courts. Of course, further and fuller details are not required to be disclosed because the enquiry is an in-house and confidential matter but the record must indicate clearly and positively that the discreet enquiries were not a one-off affair or based on a casual talk or a couple of phone calls made during the course of one day. We say this because the repercussions can be devastating for a judicial officer. There may also be some exceptional case, the converse of one that David Pannick has mentioned in his book Judges. The learned author says, the qualities desired of a judge can be simply stated: 'that if he be a good one and that he be thought to be so. Such credentials are not easily acquired.

The converse of this being a judge of doubtful integrity, and he being thought to be so. If the general reputation of a judge is that his integrity is doubtful, then perhaps there is no need to make discreet inquiries in that regard. But that is not the situation that we are concerned with - it is not the case of the High Court that the general reputation of the Petitioner was one of a person of doubtful integrity.

9. In the present case, application for review, was rejected, on the basis of certain discreet enquiries conducted by one of the Hon'ble Judges, who was a part of the Committee, which rejected the application for review. This situation cannot be equated to the situation before the Hon'ble High Court of Delhi, in the above Judgment. As observed in the impugned communication, dated 30.10.2011, it would be extremely difficult for obtaining any direct evidence or definite material to demonstrate that the integrity of an officer is doubtful. In such circumstances, this Court cannot substitute its view

for the view of the review committee as to whether the integrity of the petitioner was doubtful or otherwise.

10. While this Court, for the aforesaid reasons, is not interfering with the view expressed in the impugned proceedings, it would be necessary to place a caution regarding the manner in which adverse remarks, especially relating to the integrity of Judges, are to be made in the Confidential Reports of Judicial Officers. It is an acknowledged fact that disgruntled employees, colleagues or litigants are prone to make allegations against Judicial Officers, especially on the integrity of the Judicial Officers. The Hon'ble Judges of this Court, have always balanced the need to investigate such complaints with the need to protect honest officers who are being targeted for having passed orders or Judgments which are not to the liking of the learned counsel appearing for parties or for the litigants themselves. It would only be appropriate that adequate precautions are taken before any adverse remarks are placed in the Confidential Reports of the Judicial Officers. One such protection could be to seek inputs from diverse sources and not to record an adverse entry, especially regarding the integrity of a judicial officer, based on a single input, even if the said input is from the Principal District Judge of the said District. It is the view of this Court, that unless such allegations are cross checked, it would not be safe to pass any adverse remark against the judicial officer.

11. In the circumstances, this Writ Petition is dismissed. There shall be no order as to costs.

As a sequel, pending miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

R. RAGHUNANDAN RAO, J

T.C.D. SEKHAR, J

RJS

THE HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO
&
THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

WRIT PETITION No: 30701 of 2013

(per Hon'ble Sri Justice R.Raghunandan Rao)

.03.2026

RJS

