

**HON'BLE SRI JUSTICE J. SREENIVAS RAO**

**WRIT PETITION No.33001 of 2016**

**ORDER:**

This writ petition is filed seeking following relief:

*“ to issue an appropriate order or direction more particularly a writ of Mandamus declaring the action of the respondent no 2 in not passing any orders on the revision filed by the petitioner against the orders passed by the 3<sup>rd</sup> respondent in proceedings No.E1/1694/2014, dated 02.12.2015, by upholding the orders passed by the 4th respondent with regard to handing over the possession of the union building located in the land to an extent of Ac.0.05gts. in Sy.No.348, situated at Adilabad Town, Adilabad District as illegal, arbitrary, abuse of process of law and is a clear case of violation of principles of natural justice and consequently direct the 2<sup>nd</sup> respondent to pass appropriate orders on the revision petition filed by the petitioner in the interest of justice”.*

2. Heard Sri S.Satyam Reddy, learned counsel representing Sri S. Surender Reddy, learned counsel for the petitioner and learned Assistant Government Pleader for Revenue for respondent Nos.1 to 5 and Sri G.Vidyasagar, learned Senior Counsel representing Smt. K.Udayasri, for respondent No.6.

3. Learned counsel for the petitioner submits that, earlier nomenclature of the petitioner's Federation was Andhra Pradesh United Teachers' Federation (APUTF). On 23.09.2011, a general body meeting of the Adilabad District of APUTF was conducted and was resolved to change the name of the APUTF as Telangana United Teacher's Federation (TUTF). Accordingly, the body was registered

*vide* registration No.501/2011, dated 25.10.2011.

Similarly, in all the Districts of Telangana, the name of APUTF was changed into TUTF, and accordingly, Adilabad unit's name was changed as TUTF of Adilabad unit. He further submits that the petitioner's Federation submitted a representation before respondent No.2 seeking to handover the building to their representatives, even though it is nothing to do with the assets of Adilabad District Unit. He further submits that Sri A. Venkati, who is claiming to be the General Secretary of APUTF, Adilabad, has filed an application before respondent No.4. Basing on the said application, respondent No.4 passed order *vide* Proceedings No.C/1730/2011, dated 26.11.2011, directing the Tahsildar, Adilabad, to take possession of TUTF building.

3.1. Questioning the said order, respondent No.6 filed W.P.No.31993 of 2011 before this Court and the same was withdrawn on 11.12.2012. Thereafter, respondent No.4 without giving any notice and opportunity to the

petitioner's Federation passed order *vide* Proceedings No.1730/2011, dated 20.05.2013, directing respondent No.5 to handover the union building to respondent No.6. Questioning the said order, the petitioner filed W.P.No.15727 of 2013 and the same was allowed on 06.06.2013, directing respondent No.4 to consider the matter afresh and pass appropriate orders in accordance with law, after giving notice and opportunity of personal hearing to both sides and further, directed the Government to remain in possession till the orders are passed afresh by respondent No.4.

3.2. He further contended that respondent No.4 without properly considering the contentions raised by the petitioner passed the order on 21.05.2014, directing Tahsildar/respondent No.5 to handover the possession of the building to respondent No.6. Questioning the said order, the petitioner filed appeal before respondent No.3 on 24.05.2014. Respondent No.3 without considering the

grounds of the appeal and without giving any reasons dismissed the appeal on 02.12.2015 and the order of respondent No.4, dated 20.05.2013, confirmed. Admittedly, the said order was not in existence, as the said order was already set aside by this Court in W.P.No.15727 of 2013 on 06.06.2013. Aggrieved by the same, petitioner filed revision before respondent No.2 and when the said revision is pending, respondent No.5 is trying to handover the possession in favour of respondent No.6. At that stage, the petitioner had approached this Court and filed the present writ petition.

4. *Per contra*, Sri G.Vidyasagar, learned Senior Counsel appearing on behalf of respondent No.6 vehemently contended that, the revision petition filed by the petitioner before respondent No.2 is not maintainable under law, and the petitioner has not mentioned any provisions of law how the said revision is maintainable before respondent No.2. He further contended that subsequent to the order dated

02.12.2015 passed by respondent No.3, respondent No.5 handed over the subject property to respondent No.6 on 07.09.2016. Petitioner suppressed the said facts and filed the present writ petition on 26.09.2016. By virtue of the interim suspension granted by this Court, respondent No.4 has taken possession from respondent No.6 on 05.10.2016 and the petitioner is not having any right over the subject property and they have to approach the competent Civil Court to establish their claim. Hence the writ petition filed by the petitioner's Federation is liable to be dismissed.

5. Learned Assistant Government Pleader submits that respondent No.3 after considering the contentions of the respective parties and after due verification of the records rightly dismissed the appeal confirming the order of respondent No.4, and there is no illegality and irregularity in the said order.

6. Having considered the rival submissions made by respective parties and after perusal of the material available

on record it reveals that, the petitioner as well as respondent No.6 are claiming the rights over the subject property i.e., building located in the land to an extent of Acs.0.05 guntas in Survey No.348 situated at Adilabad Town. It is also reveals from the record that, on 20.05.2013, respondent No.4 passed the order *vide* Procs.No.C/1730/2011, dated 20.05.2013, directing respondent No.5 to handover the possession of the subject property to UTF branch, Adilabad. Questioning the said order, the petitioner's Federation filed W.P.No.15727 of 2013 and this Court after hearing the parties, disposed the said writ petition on 06.06.2013, by setting aside the order passed by respondent No.4 dated 20.05.2013 and directed respondent No.4 herein to pass orders afresh, in accordance with law, after giving opportunity of being heard and till such orders are passed afresh by respondent No.1 therein, the subject building shall remain in possession of the Government and the said order has become final.

7. Thereafter, respondent No.4 passed the order *vide* Procs.No.C/1730/2011 dated 21.05.2014, holding that respondent No.6/Federation is entitled for the possession of the APUTF building and further directed respondent No.5 to handover the possession of the said building to respondent No.6. Questioning the said order, petitioner filed appeal before respondent No.3 and the same was dismissed by its order dated 02.12.2015, and the operative portion of it reads as follows:

To this effect, the Joint Collector, Adilabad has issued notices to both the parties i.e., APUTF and TUTF and fixed hearing in the first instance on 28.06.2014 and also issue final notice to both the parties and concerned officer on 13.07.2015.

Thereafter after having gone through the orders of RDO, Adilabad issued in C/1730/2013, Dt:20.05.2013 I don't find any reasons to interfere with the orders issued by RDO, Adilabad.

The RDO, Adilabad is requested to take necessary action accordingly.

8. The above said order clearly reveals that, respondent No.3 without giving any reasons simply dismissed, the appeal confirming the non existing order dated 20.05.2016 of respondent No.4, as the said order was already set aside by this Court in W.P.No.15727 of 2013 dated 06.06.2013. Admittedly, the Petitioner filed appeal before respondent no.2 questioning the subsequent order dated 21.05.2014 passed by respondent No.4. The main grievance of the petitioner is that questioning the impugned order dated 02.12.2015 petitioner filed revision petition before respondent No.2 on 14.12.2015 and the same is pending. However, the petitioner has not stated how the said revision petition is maintainable before respondent No.2 and the same is not brought to the notice of this court that under particular provision of law revision is lies before respondent No.2.

9. Even assuming that the revision petition filed by the petitioner before respondent No.1 is not maintainable; this



Court is of the view that respondent No.3 had passed cryptic order without assigning any reasons and confirmed the non existing order passed by respondent No.4. If this Court is going to dismiss the writ petition it amounts to upholding of irregular order passed by respondent No.3. Hence, this Court is invoking the extraordinary powers conferred under Article 226 and Article 227 of Constitution of India, molding the relief to render substantial justice to the parties.

10. It is very much relevant to place on record that in **M. Sudakar vs. V. Manoharan and Others**<sup>1</sup>, the Hon'ble Apex Court held that the power to mould relief is always available to the Court possessed with the power to issue high prerogative writs. In order to do complete justice it can mould the relief depending upon the facts and circumstances of the case. In the facts of a given case, a Writ Petitioner may not be entitled to the specific relief claimed by him, but this itself will not preclude the Writ Court from granting such other relief to which he is otherwise entitled. Hence, although there may be no specific prayer the Court thinks that to meet the requirements and to do

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<sup>1</sup> 2011 (1)SCC 484

complete justice in the matter, the relief can be moulded by the Court.

11. In **M/s Kranti Associates Pvt.Ltd and Another Vs. Masood Ahmed**<sup>2</sup> the Hon'ble Supreme Court relying upon several judgments held at **para 47** that the administrative authority must record reasons in support of its conclusions. Hence, the impugned order passed by the appellate authority is violative of principles of natural justice and contrary to law.

12. In **Assistant Commissioner, Commercial Tax Department, Works Contract and Leasing, Kota vs Shukla and Brothers**<sup>3</sup> relying upon the judgment in State of Rajasthan vs. Rajendra Prasad Jain ((2008) 15 SCC 711) Hon'ble Apex Court stated that '**reason is the heartbeat of every conclusion, and without the same it becomes lifeless.**'

13. It is already stated supra that, respondent No.3 passed cryptic order on 02.12.2015, without considering the contentions of the petitioner and without giving any

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<sup>2</sup> 2010(9) SCC 496

<sup>3</sup> 2010(4) SCC 785

reasons, though, the petitioner has not directly questioned the above said order in this writ petition. However, the petitioner raised ground that, respondent No.3 has mechanically passed non-speaking orders without giving any reasons. This Court while exercising the powers conferred under Article 226 and Article 227 of the Constitution of India, to render substantial justice to the parties, is of the view that respondent No.3 passed order dated 02.12.2015 without giving any reasons and confirmed the non existing order passed by respondent No.4 dated 20.05.2013 and required reconsideration.

14. In view of the foregoing reasons as well as the principle laid down by the Hon'ble Apex Court the impugned order dated 02.12.2015 passed by respondent No.3 is liable to be set aside. Accordingly, set aside and respondent No.3 is directed to pass appropriate orders in accordance with law, after giving opportunity to the petitioner as well as respondent No.6 including personal

hearing within a period of one (1) month from the date of receipt of a copy of this order. Till such time, the official respondents are directed to maintain *status quo* in respect of the subject property.

15. Accordingly, the writ petition is disposed of. No costs.

As a sequel thereto, miscellaneous applications, if any, pending in this writ petition shall stand closed.

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**JUSTICE J SREENIVAS RAO**

Dated: 21<sup>st</sup> December, 2023

L.R. Copy to be marked – Yes

PSW