

ITEM NO.5 Court 6 (Video Conferencing) SECTION X

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Writ Petition(s)(Civil) No(s). 555/2020

B. SAILESH SAXENA Petitioner(s)

VERSUS

UNION OF INDIA & ORS. Respondent(s)

Date : 03-09-2021 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL  
HON'BLE MR. JUSTICE M.M. SUNDRESH

For Petitioner(s) Mr. V. Chidambresh, Sr. Adv.  
Mr. Aakash Sirohi, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following  
O R D E R

The petitioner has filed the writ petition under Article 32 of the Constitution of India seeking writ of Mandamus or an appropriate writ, order or direction directing respondent Nos. 1 to 3 i.e., Union of India, State of Telangana and Registrar (Vigilance & Administration) of the High Court of Telangana to consider the representation dated 03.09.2019 submitted by the petitioner and take necessary action as per law for proceeding further with the proposal of appointment of respondent No. 4 as a Judge of the High Court for the State of Telangana.

The petitioner is an Advocate and thus well aware of the legal system. He has been enrolled with the Bar Council of Telanagana since the year, 2000. In effect, the petitioner states that the recommendation of respondent No. 4 should not be processed for his elevation as a Judge of the High Court. The petitioner seeks to make various allegations against respondent No. 4 and other persons. We specifically posed to learned senior counsel for the petitioner as to what is the further fate of the decision rendered in WP No. 4023 of 2018 dated 08.06.2018 by a Bench of the Telangana High Court. We are informed that a review application has been filed. We have the benefit of the said judgment, though the petitioner did not annexe it with the present writ proceedings. We would like to discuss the ramifications of the said judgment.

In the said petition, the petitioner claimed that he was a legal advisor for the family of a Member of Parliament belonging to the Telugu Desam Party and legal counsel for other politically connected persons. He claimed to have suffered on account of political prejudices as the petitioner and his family members were being subjected to torture due to harassment by the police authorities. Various allegations against the local

police authorities were made in that petition. The Court took note of the fact that there are various complaints pending investigation against the petitioner. In fact the petitioner had filed six writ petitions on behalf of fictitious non-existent persons. This was apart from seven more writ petitions filed by the petitioner in his capacity as counsel for certain third parties and when the efforts were made to serve notices on those persons, it was found that there were no such persons available at the address. The petitioner failed to produce the litigants in those proceedings, though one person arrested, is stated to have admitted that the petitioner and others projected an existing person as a non-existing person in a land grabbing case. In a nutshell, the allegation of the petitioner is involvement with such land grabbing cases and the action of the police and his endeavour to prevent the action on the pretext of his sufferings on account of legal assistance he was giving to persons of different political dispensations.

Suffice to say the detailed judgment is a thread bare analysis of the directives of Constitution Bench of this Court in *Lalita Kumari vs. Government of UP*, (2014) 2 SCC 1 as the petitioner was insisting that there cannot be any

preliminary enquiry but an FIR be registered. The Bench rightly observed that it was not simply a case of invoking the mandate issued by the Constitution Bench in *Lalita Kumari's* case (supra) but that the petitioner himself is an accused in six criminal complaints, three of which were lodged by public servants. The complaint lodged by respondent No. 4 in the capacity as the then Registrar (Judicial) was pursuant to a direction issued by learned Single Judge of the Telangana High Court in which writ petitioners were found to be non-existent persons. The incident for which grievance is made on 15.06.2017 was after the petitioner was taken into police custody on the sum and substance of a criminal complaint that the petitioner filed on the file of XIV, Additional Chief Metropolitan Magistrate against 11 named individuals. The contents of the FIR lodged by respondent No. 4 on the directions of the Court were quoted thereafter. The FIR at the instance of the Registrar was filed on 31.07.2017 in pursuance to a direction issued by High Court on 04.07.2017 and thus, in effect the case of the petitioner there was that multiple FIRs were being filed with a view to harass the petitioner, that complaint registered pursuant to the direction of the Court would also fall in the same category.

Respondent No. 4 as the responsible officer only followed the direction passed by the learned Judge of the High Court and thus the High Court opined that what the petitioner was attempting to do was to seek an investigation into the allegation that the evidence collected by the investigating officer in criminal complaints filed against him as fabricated and that was found to be nothing but a deflection towards derailing the course of investigation in the complaints lodged against the petitioner.

The effect of what the petitioner had prayed for therein was found to be to seek a writ of mandamus to direct the investigating officer to first put himself in the dock along with the material before they can be relied upon in the criminal complaints filed against the petitioner. The writ petition was found to be thoroughly misconceived and appears to be an abuse of process of law and a counterblast to the series of criminal complaints in which persons belonging to the "so-called noble profession got involved".

We are surprised as the brazenness of the petitioner now filing the present petition under Article 32 of the Constitution of India, the aforesaid being the finding against him, to now somehow see that the elevation of respondent No. 4

does not take place on the account of these proceedings initiated by the petitioner. This is gross abuse of process of law.

The process of appointment of judges to the High Court is under a well known established process where the collegium of the High Court considers recommending the names and in case of judicial officers by seniority and on merits. Thereafter, the proposed IB inputs and other inputs are obtained and the Government processes the names. The collegium of the Supreme Court has the benefit of all the material before taking a call on whether to recommend the name or not. The appointment takes place thereafter by issuance of warrants of appointment. Thus sufficient safeguards exist in the system.

We consider the endeavour of the petitioner as one of harassing the respondent No. 4 and abusing the court proceedings and since nothing else seems to deter the petitioner in such endeavours, we are of the view that appropriate imposition of costs seems to be the only solution.

We thus dismiss the writ petition with costs of Rs. 5 lakhs to be deposited with the Supreme Court Advocates On Record welfare Fund within four weeks.

We also think it appropriate that the Bar

Council of Telangana examines the conduct of the petitioner as a member of the "Noble Profession" and for that purpose a copy of the order be sent to the Bar Council of Telangana.

[CHARANJEET KAUR]  
ASTT. REGISTRAR-cum-PS

[POONAM VAID]  
COURT MASTER (NSH)