

IN THE HIGH COURT OF ANDHRA PRADESH :: AT AMARAVATI

* * * *

Writ Petition No.16102 of 2022

Between

Sk. Abdul Khadar Jelani

.... Petitioner

And

The State of AP, rep. by its
Principal Secretary, Rural Water Supply
and Sanitary Engineering Department,
AP Secretariat, Velagapudi, Amaravati,
Guntur district, AP and others.

.... Respondents

JUDGMENT PRONOUNCED ON

: 19.07.2022

THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI :

1. Whether Reporters of Local newspapers may be allowed to see the Judgments? :
2. Whether the copies of judgment may be Marked to Law Reporters/Journals? : YES
3. Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? :

*** THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI**

+ Writ Petition No.16102 of 2022

% 19.07.2022

Sk. Abdul Khadar Jelani

...Petitioner

Vs.

\$ The State of AP, rep. by its
Principal Secretary, Rural Water Supply
and Sanitary Engineering Department,
AP Secretariat, Velagapudi, Amaravati,
Guntur district, AP and others.

... Respondents

! Counsel for the Petitioner : Sri Pavan Kumar Pasupuleti

^Counsel for the Respondents 1 to 6 : GP for Services-I and IV

Counsel for Respondent No.7 : Sri Vinod K. Reddy

<Gist :

>Head Note :

? Cases referred:

1. (2012) 4 SCC 407
2. (1890) 25 QBD 357
3. AIR 1999 SC 943
4. AIR 2013 SC 58

HON'BLE SMT. JUSTICE KONGARA VIJAYA LAKSHMI**Writ Petition No.16102 of 2022****Order:**

This Writ Petition is filed questioning the action of the respondents 2 to 6 in not taking appropriate action against the 7th respondent for submitting fabricated 8th class study certificate as arbitrary and illegal.

The case of the petitioner is that the 7th respondent joined as a Driver in the office of the 5th respondent by submitting a fabricated study certificate and the petitioner came to know about the same through the RTI application made by him. Basing on the said application, he sent a representation to respondents 2 to 5, but they did not take any action against the 7th respondent.

As seen from the pleadings, the petitioner is aged about 43 years. In the affidavit filed in support of the Writ Petition it is not stated, as to how, he is aggrieved by the appointment of the 7th respondent. He does not even state that, he is eligible for the post to which the 7th respondent was appointed and due to the appointment of the 7th respondent petitioner was denied the opportunity. Even in the representation, said to have been filed by the petitioner, he only requests to take action against the 7th respondent. Pursuant to the representation of the petitioner, the Deputy Executive Engineer addressed a letter to the petitioner on 09.11.2018 stating that the matter is being enquired into and that as the matter pertains to the employment of the 7th respondent, about 42 years ago it will take some time and that the petitioner would be intimated after the matter is examined. The Mandal Executive Officer, Ongole also addressed a letter to the Deputy Engineer, RWS & S Sub-Division on 07.12.2018 stating that the records pertaining to the School in which the

7th respondent studied are not available and pursuant to the said letter the Deputy Engineer also addressed a letter to the petitioner on 22.12.2018 intimating the same. As seen from the said correspondence, it appears that the petitioner was one year old when the 7th respondent was appointed.

In view of the facts and circumstances, at best, petitioner is a complainant and in a service matter he would not have any locus to file the present Writ Petition. The Hon'ble Supreme Court in a decision reported in **Ravi Yashwant Bhoir v. Collector**¹, with regard to locus of a complainant held as under.

"Shri Chintaman Raghunath Gharat, Ex-President was the complainant, thus, at the most, he could lead the evidence as a witness. He could not claim the status of an adversial litigant. The complainant cannot be the party to the lis. A legal right is an averment of entitlement arising out of law. In fact, it is a benefit conferred upon a person by the rule of law. Thus, a person who suffers from legal injury can only challenge the act or omission. There may be some harm or loss that may not be wrongful in the eyes of law because it may not result in injury to a legal right or legally protected interest of the complainant but juridically harm of this description is called *damnum sine injuria*."

To invoke the jurisdiction of this Court, the complainant has to establish that he was denied of a legal right which he has and that he sustained injury to any legally protected interest of his. Unless he has a legal right for a justiciable claim, he cannot be heard as a party in the lis. A fanciful grievance or a complaint is not sufficient and will not confer a locus to file a Writ petition against another person.

¹ (2012) 4 SCC 407

As seen from the facts of the present case, the petitioner is not an aggrieved party and no right of his has been violated or threatened to be violated.

In the case of **R. v. London Country Keepers of the Peace of Justice**², the Court held thus.

“A person who cannot succeed in getting a conviction against another may be annoyed by the said findings. He may also feel that what he thought to be a breach of law was wrongly held to be not a breach of law by the Magistrate.

He thus may be said to be a person annoyed but not a person aggrieved, entitle to prefer an appeal against such order.”

A "person aggrieved" means a person who is wrongly deprived of his entitlement which he is legally entitled to receive and it does not include any kind of disappointment or personal inconvenience. "Person aggrieved" means a person who is injured or is adversely affected in a legal sense.

Only a person who suffers a legal injury can challenge the act or order or file a writ petition and the Hon'ble Supreme Court in **Utkal University v. Dr. Nrusingha Charan Sarangi**³ held that existence of legal right is a condition precedent to invoke writ jurisdiction.

“Aggrieved person” must show that he has a more particular or peculiar interest of his own beyond that of the general public in seeing that the law is properly administered.

² (1890) 25 QBD 357

³ AIR 1999 SC 943

In the case of **Ayaaubkhan Noorkhan Pathan v. State of Maharashtra**⁴, the Hon'ble Supreme Court held that under ordinary circumstances, a third person, having no concern with the case at hand, cannot claim to have any *locus-standi* to raise any grievance whatsoever but in exceptional circumstances, Court may examine the issue and in exceptional circumstances Court may also proceed *suo-motu*. For the sake of convenience, the relevant observations in the case of **Ayaaubkhan Noorkhan Pathan** (supra) are reproduced as under:-

"22. Thus, from the above it is evident that under ordinary circumstances, a third person, having no concern with the case at hand, cannot claim to have any *locus-standi* to raise any grievance whatsoever. However, in the exceptional circumstances as referred to above, if the actual persons aggrieved, because of ignorance, illiteracy, in articulation or poverty, are unable to approach the court, and a person, who has no personal agenda, or object, in relation to which, he can grind his own axe, approaches the court, then the court may examine the issue and in exceptional circumstances, even if his *bona fides* are doubted, but the issue raised by him, in the opinion of the court, requires consideration, the court may proceed *suo-motu*, in such respect."

This Court has gone through the entire affidavit and no such averment has been made stating that the actual aggrieved person because of ignorance, illiteracy, inarticulation or poverty is unable to approach the Court and in those circumstances the petitioner,

⁴ AIR 2013 SC 58

admittedly a whistle blower, has approached this Court. Thus, the present case would not come under the category of exceptional circumstances as has been spelt out by the Apex Court in the case of **Ayaaubkhan Noorkhan Pathan** (supra).

As the petitioner does not have any legal right of his own and as he has not suffered any legal injury because of the appointment of the 7th respondent, he does not have any locus to file the present Writ Petition.

In view of the facts and circumstances and in the light of the judgments referred to above, the Writ Petition is dismissed. There shall be no order as to costs.

As a sequel thereto, the miscellaneous applications, if any, pending in this Writ Petition, shall stand closed.

KONGARA VIJAYA LAKSHMI, J

Date:19.07.2022

Note:

LR copy to be marked

(B/O)

Nsr

HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

Writ Petition No.16102 of 2022

Date:19.07.2022

Nsr