

CASE NO.:
Appeal (civil) 1101 of 2008

PETITIONER:
K.R.Suryanarayana

RESPONDENT:
The A.P.Comml. Taxes Non-Gazetted Officers' Association & Anr.

DATE OF JUDGMENT: 04/02/2008

BENCH:
S.B. SINHA & V.S.SIRPURKAR

JUDGMENT:
JUDGMENT

ORDER
CIVIL APPEAL NO.1101 /2008
(@SLP(C) No.19637 /2007)

Leave granted.

First respondent is an association. Andhra Pradesh Commercial Taxes Non-Gazetted Officers and Class-IV Employees Association(respondent No.3 before the High Court) of which appellant claims himself to be an elected President is also an association purporting to be representing the same set of employees.

Disputes and differences having arisen between the office bearers of these two associations as regards the name under which they can function, an application was filed by the respondents herein before the Chief Judge, City Civil Court, Hyderabad raising a dispute in terms of Section 23 of the Andhra Pradesh Societies Registration Act,2001) praying, inter alia, for a declaration that the first respondent alone was entitled to use the name Andhra Pradesh Commercial Taxes Non-Gazetted Officers' Association and the appellant herein and the Andhra Pradesh

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Commercial Taxes Non-Gazetted Officers and Class-IV Employees Association(respondent No.3 before the High Court) were not and could not associate themselves therewith.

Appellant and the Andhra Pradesh Commercial Taxes Non-Gazetted Officers and Class-IV Employees Association(respondent No.3 before the High Court) in their written statement, inter alia, raised a contention that from the name of Andhra Pradesh Commercial Taxes Non-Gazetted Officers' and Class IV Employees Association the words " Class IV Employees" have since been deleted. It was furthermore pointed out that on a representation made by the appellant herein; the Government of Andhra Pradesh had issued a Memorandum dated 30.10.2004 holding that the words " Andhra Pradesh" from the name of Society bearing Registration No. 600/2004 would be deemed to be non-existent from the date of registration of the society.

Indisputably, Respondents had filed a writ petition thereagainst before the High Court of Andhra Pradesh at Hyderabad which was marked as Writ Petition No. 21170 of 2004. In the said writ petition a miscellaneous application being WPMP No. 2733/2004 was filed and the learned Single Judge of the said Court by an order dated 8.12.2006 while admitting the said writ petition dismissed the said WPMP. Presumably, that is the reason that the Andhra Pradesh Commercial Taxes Non-Gazetted Officers and Class-IV Employees

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Association(respondent No.3 before the High Court) is not a party before this Court.

In the mean time, it is stated owing to non-payment of process-fee as against Andhra Pradesh Commercial Taxes Non-Gazetted Officers and Class-IV Employees Association(respondent No.3 before the High Court), the suit filed by the respondents before the Chief Judge, City Civil Court, Hyderabad was dismissed.

We are not concerned with the correctness of the said statement. But it appears that the name of Andhra Pradesh Commercial Taxes Non-Gazetted Officers and Class-IV Employees Association(respondent No.3 before the High Court) continued in the records and in fact the learned trial Judge by reason of a judgment dated 25.7.2007, inter alia, decreed the said suit directing as under:

1. That the petition be and the same is hereby allowed as prayed for.

2. That the 1st petitioner alone is entitled to use the name of APCTNGOs Association.

3. That the respondents are not entitled to use the name or associate with the name APCTNGOs Association.

4. That all communications/circulars/press notes dated 18.5.2004 issued by the 1st respondent are declared as illegal.

5. That consequential injunction is granted against the respondent Nos. 1 & 2 for using the name of the Andhra Pradesh Commercial Tax Non-Gazetted Officers Association vide its circular and holding a General Body in the name of the said Association (of the Association) on 11.6.2004.

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6. That in the circumstances, each party do bear their own costs."

Appellant filed Civil Revision Application before the High Court. By and order dated 7.9.2007, a learned Single Judge of the High Court directed status-quo as on the said date to be maintained until further orders. An application for vacating the said interim order was filed by the respondent Nos. 1 and 2.

By reason of the impugned judgment, the said High Court by an order dated 1.10.2007 vacated the said order of stay holding as under:

" After hearing the parties at length and on a consideration of the voluminous evidence before it, the Trial Court decreed the O.P. as prayed for.

Several contentions are urged on behalf of the petitioner touching on merits as well as maintainability of the very O.P. In the limited context of the interim order, it is to be noted that the petitioner is only an individual, whereas the declaration prayed for in the O.P. is in relation to an association. As long as the petitioner is not an association, it cannot be said that he has got any genuine grievance. The Certificate of registration issued in favour of the 1st respondent is still intact. The impact of the various proceedings that are said to have ensued thereafter, needs to be considered at the hearing of the revision."

Mr. Raju Ramachandran, learned senior counsel appearing on behalf of the appellant would submit that the impugned order is based on a wrong premise in so far as the decree was not only passed as against Andhra Pradesh Commercial Taxes Non-Gazetted Officers and Class IV Employees Association(respondent No.3 before the High Court) but also against the appellant herein and the Certificate of

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registration issued in favour of respondent No.1 was not intact in view of the aforementioned Memorandum No. 5588/Society/2004 dated 30.10.2004 which was

communicated to them by reason of communication dated 6.10.2006.

Mr. L.N. Rao, learned senior counsel appearing on behalf of the respondents, on the other hand, would submit that the Andhra Pradesh Commercial Tax Non-Gazetted Officers and Class-IV Employees Association is a defunct society inasmuch as the words " and Class-IV Employees Association" are said to have been deleted.

Indisputably, the appellant herein had been taking up the cause of the employees of the Government of Andhra Pradesh purported to be on the basis that he was the President of the Andhra Pradesh Commercial Tax Non-Gazetted Officers and Class-IV Employees Association. If the contention of Mr.Raju Ramachandran, learned senior counsel that the suit has been dismissed as against the Andhra Pradesh Commercial Tax Non-Gazetted Officers and Class-IV Employees Association, is correct, evidently the decree passed by the learned XII Additional Chief Judge, City Civil Court at Hyderabad is without jurisdiction.

Furthermore, prima-facie the name of the respondent No.1 did not remain the same in view of the aforementioned Memorandum dated 30.10.2004 which has been communicated to it by communication dated 6.10.2006.

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We are, therefore, of the opinion that the matter should be heard out by the High Court afresh on merit. We would request the High Court to consider the desirability of taking up the pending Civil Revision Application with writ petition No.21170/2004 so that the disputes between the parties hereto may be finally resolved.

While setting aside the impugned judgment, we would request the High Court to hear out the matters as expeditiously as possible and preferably within a period of three weeks from the date of communication of this order. We would, however, may observe that in the fitness of things and keeping in view the nature of dispute between the two associations, it would be appropriate if the concerned authorities of State Government do not pass any order on the representation filed by any of these associations till an appropriate order thereupon is passed by the High Court. The appeal is allowed on the aforementioned terms.

Let the Registry send a copy of this order to the Registrar General of the Andhra Pradesh High Court so that necessary action may be taken in terms of this order.