

A. Lakshminarayana Vs. Government of Andhra Pradesh, Municipal Administration and Urban Development Department and ors.

A. Lakshminarayana Vs. Government of Andhra Pradesh, Municipal Administration and Urban Development Department and ors.

SooperKanoon Citation : sooperkanoon.com/446994

Court : Andhra Pradesh

Decided On : Dec-23-2002

Reported in : 2003(3)ALT691

Judge : S.R. Nayak and ;B. Seshasayana Reddy, JJ.

Acts : [Constitution of India](#) - Article 226

Appeal No. : Writ Petition No. 24608 of 2002

Appellant : A. Lakshminarayana

Respondent : Government of Andhra Pradesh, Municipal Administration and Urban Development Department and ors.

Advocate for Def. : G.P. for Services-I

Advocate for Pet/Ap. : M. Surendar Rao, Adv.

Disposition : Petition dismissed

Judgement :

ORDER

S.R. Nayak, J.

1. What arises for decision is whether the Municipal employees could be appointed to the posts of Deputy Executive Engineers in the Department of A.P. Public Health by way of direct recruitment or not.

2. On this legal issue, there is no direct pronouncement of this Court or the Supreme Court though there is a decision of this Court handed down in W.P.No. 23668 of 2002 dated 10-12-2001 that no Municipal employee can be appointed to the posts of Deputy Executive Engineers in the Department of A.P. Public Health by way of promotion. This question has to be dealt with and answered by the learned Tribunal while disposing of the Original Applications. What is assailed in the present writ petition is the order made by the learned Tribunal vacating the earlier interim order of status quo dated 16-4-2002 and granting liberty to the respondents to effect promotions to the posts of Deputy Executive Engineers based on the rules and other instructions of the Government in the matter of filling up of the posts of Deputy Executive Engineers.

3. We have perused the order of the learned Tribunal. It was submitted before the learned Tribunal on behalf of the respondent/Government that the A.P. Public Health Department was facing hardship due to stalling of all promotions to the posts of Deputy Executive Engineers. The Courts have repeatedly held and reiterated that in service matters if the interim order granted by the Court or the Tribunal tends to stall the smooth functioning of the administration, such interim order should be avoided, obviously, because, by granting such interim order the public administration cannot be reduced to a standstill and such a situation would not be in the public interest. Looking from that angle, we do not think it appropriate for this Court to step in under Article 226 of the Constitution and upset the interim order made by the learned Tribunal in its discretion. On the other hand, we think that interest of the petitioner and similarly circumstanced persons would be safeguarded by directing that the promotions that may be made by the respondents to the post of Deputy Executive Engineer in the department of A.P. Public Health would be subject to the final result of the original Applications pending before the learned Tribunal and further directing the learned Tribunal to hear and dispose of the Original Applications within a time frame.

4. It is brought to our notice as well as it is reflected in the impugned order of the learned Tribunal that no counter was filed on behalf of the Government despite granting a fair number of adjournments at their instance. This conduct of the Government cannot be countenanced. In a matter like this, the Government is expected to act diligently and file its pleadings within a reasonable time. We direct the Government to file counter/reply statement to the Original Applications, if not already filed, within a period of two weeks from today before the learned Tribunal. The learned Tribunal shall hear and dispose of the Original Applications within a period of six weeks from the date of receipt of a copy of this order.

5. With the above directions and without disturbing (SIC) interim order passed by the learned Tribunal, the writ petition shall stand disposed of with no order as to costs.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com