

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

WRIT PETITION No.5351 of 2025

Between:

PAMPANA KALYANI, D/O. PAMPANA SATYANARAYANA, W/O. PITANAI NAGA SATISH, AGED 40 YEARS, TEACHER, PMSRHI ZPP GIRLS HIGH SCHOOL PLUS, GANAPAVARAM (V) AND (M), WEST GODAVARI DIST.534198.

...PETITIONER

AND

STATE BANK OF INDIA, REP BY ITS BRANCH MANAGER, GANDHINAGAR BRANCH, POST BAG NO.1, BRANCH CODE 012808, VUYYUR JAMINDAR STREET, VIJAYAWADA, KRISHNA DISTRICT AP. PIN CODE - 520003

...RESPONDENT

DATE OF ORDER PRONOUNCED : **22.04.2025**

SUBMITTED FOR APPROVAL:

HONOURABLE SRI JUSTICE SUBBA REDDY SATTI

1. Whether Reporters of Local Newspapers may be allowed to see the order? : Yes/No
2. Whether the copy of order may be marked to Law Reporters/Journals? : Yes/No
3. Whether His Lordship wish to see the fair copy of the order? : Yes/No

JUSTICE SUBBA REDDY SATTI

*** HONOURABLE SRI JUSTICE SUBBA REDDY SATTI**
+ WRIT PETITION No.5351 of 2025

% 22.04.2025

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DISTRICT AP. PIN CODE - 520003

...RESPONDENT

! Counsel for Petitioner : Sri K.K.Durga Prasad

^ Counsel for Respondent : Sri Sreedhar Valiveti

< Gist:

> Head Note:

? Cases referred:

- 1) (2022) 1 SCC 75 : 2021 SCC OnLine SC 8
- 2) (1999) 7 SCC 685
- 3) CrI.O.P.Nos.16363 & 16454 of 2022 dated 25.07.2022
- 4) 2016 (3) ALD 22
- 5) 2020 (5) ALD 383 (AP) (DB)

This Court made the following:

APHC010098152025



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3331]

TUESDAY, THE TWENTY SECOND DAY OF APRIL
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE SUBBA REDDY SATTI

WRIT PETITION NO: 5351/2025

Between:

Pampana Kalyani

...PETITIONER

AND

State Bank Of India

...RESPONDENT

Counsel for the Petitioner:

1.K K DURGA PRASAD

Counsel for the Respondent:

1.SREEDHAR VALIVETI

The Court made the following:

ORDER

The above Writ Petition is filed to declare the action of respondent in freezing the petitioner's salary from May, 2024 onwards, in pursuance of order passed by the arbitral tribunal in ARB/PCHFL/PL/26/2024/97 dated 03.05.2024, as illegal, arbitrary and violative of Articles 14, 21 and 300A of the Constitution of India.

2. a) The petitioner, a Government Teacher, filed the above writ petition. In the affidavit, it was averred that the petitioner has been working as a Teacher, PMSRHI ZPP Girls High School, Ganapavaram, since 2009. The monthly salary of the petitioner Rs.83,103/- is credited to her bank account No.30933722886 of State Bank of India, Gandhinagar Branch, Vijayawada. The petitioner obtained a personal loan of Rs.19.5 lakhs in December 2022, and an amount of Rs.38,530/- is being deducted as EMI. The remaining amount of Rs.44,573/- has been freezed by the respondent from May, 2024 onwards without jurisdiction and notice. When the petitioner approached the respondent under Right to Information Act, the respondent replied that it received order from TIS HAZARI COURTS Delhi to mark hold of petitioner's account under section 17 of the Arbitration and Conciliation Act, 1996 (for short "**the Act**"). The petitioner is not aware of the freezing of her account till receiving a reply under the Right to Information Act. The petitioner had taken another loan of Rs.5,90,000/- from Piramal Capital & Housing Finance Limited vide loan Account No.PLSA00046F2E on 12.05.2023 and an amount of Rs.14,033/- is being paid as EMI for five months and later, the amount could not be paid due to financial crisis.

b) Due to freezing of salary, the petitioner is unable to draw any amount from her savings account lying with the respondent-bank and it amounts to violation of Article 21 of the Constitution of India. The petitioner's request to de-freeze the account, did not yield any result. Since no notice was issued, freezing of account violative of principles of natural justice.

3. Heard Sri K.K.Durga Prasad, learned counsel for the petitioner and Ms.A.Padma Vanditha, learned counsel representing Sri Sreedhar Valiveti, learned counsel for respondent.

4. Learned counsel for the petitioner while reiterating the averments in the writ affidavit, would contend that before freezing of petitioner's account, neither a notice issued nor enquiry was conducted. He would also submit that the salary of the petitioner is her asset and hence, freezing the account without following due process is violative of Article 14, 19 and 21 of the Constitution of India.

5. Learned counsel for the respondent would contend that the financial institution is not made as party respondent to the writ petition. The petitioner did not make any application to set aside the order passed by the arbitral tribunal in ARB/PCHFL/PL/26/2024/97 dated 03.05.2024. The respondent must obey the orders passed by the Arbitral Tribunal. The writ petition itself is not maintainable and the petitioner without availing the effective remedy under the Act, filed the writ petition.

6. Now, the points for consideration are:

1) Whether the freezing of bank account of the petitioner by the respondent-bank, in pursuance of the order passed by the Arbitral Tribunal in ARB/PCHFL/PL/26/2024/97 dated 03.05.2024, violates the principles of natural justice and the petitioner's rights under Part-III of the Constitution of India?

2) Whether the writ petition is maintainable without arraying the financial institution as party respondent to the writ petition?

7. Since the facts narrated *supra*, manifest freezing of the account pursuant to an order passed by the Arbitral Tribunal, based upon an

application filed a creditor of the petitioner, whether the creditor is a proper and necessary party need to be examined.

8. A “necessary party” is a person who ought to have been joined as a party and in whose absence no effective decree could be passed at all by the court. If a “necessary party” is not impleaded, the suit itself is liable to be dismissed. A “proper party” is a party who, though not a necessary party, is a person whose presence would enable the court to completely, effectively and adequately adjudicate upon all matters in dispute in the suit, though he need not be a person in favour of or against whom the decree is to be made.

9. The petitioner filed the above writ petition challenging the freezing of the account by the respondent, in pursuance of the order passed by the arbitral tribunal. The copy of the order passed by the arbitral tribunal is filed along with the writ affidavit, as one of the material papers.

10. A perusal of the order passed by the sole arbitrator in Arbitration Petition No.ARB/PCHFL/PL/26/2024/97 dated 03.05.2024, would disclose that upon the application filed by M/s Piramal Capital & Housing Finance Limited under Section 17 of the Act for interim relief, the tribunal directed the State Bank of India to freeze the bank account of the petitioner. The order reads thus:

1. That the reliefs in terms of prayer clause (a), (b) and (c) are hereby granted in favour of the claimant thereby, pending the hearing and final disposal of the said arbitral proceeding and enforcement of the Arbitral award, under Section 36 of the Arbitration and Conciliation Act, 1996, Respondent himself and through his representative/agent hereby directed not to operate his Account bearing No.30933722886 maintained with State Bank of India having Account Holder Name MISS PAMPANA KALYANI Branch

at POST BAG No.1, VIJAYAWADA, KRISHNA, A.P., PIN 520003, IFSC Code SBIN0001208.

2. The Branch Manager of State Bank of India, Branch at POST BAG No.1, VIJAYAWADA, KRISHNA, A.P., PIN 520003, IFSC Code SBIN0001208 is hereby directed to freeze the bank account of the Respondent/s bearing account No.30933722886 in the name of MISS PAMPANA KALYANI maintained with their bank till further directions.
3. The copy of this order be also sent to the registered office/ Branch office/head office of the Bank for necessary compliance.

11. In pursuance of the said order dated 03.05.2024 passed by the Arbitral Tribunal, the respondent bank froze the bank account of the petitioner. According to the petitioner, upon making an application under the Right to Information Act, the respondent bank informed about the order passed by the Arbitral Tribunal.

12. Thus, the petitioner is aware of the order passed by the Arbitral Tribunal on the application made by the Financial Institution. Having filed a copy of the order of the Tribunal, for the reasons best known, the petitioner did not venture to array the financial institution as a party respondent to the writ petition. In the considered opinion of this Court, whether the writ petition is maintainable or not, the financial institution is a necessary and proper party for a proper and better adjudication of the *lis*. In the absence of the financial institution as party respondent, coupled with the interim order passed by the Arbitral Tribunal, the writ petition itself is not maintainable. The contention of learned counsel for the petitioner that freezing of account violates Articles 14, 21 and 300-A of the Constitution of India, in the considered opinion of this Court, is misconceived.

13. When an interim order has been passed by a competent Arbitral Tribunal, without exhausting the efficacious remedy under Section 37 of the Act, approaching the High Court invoking extraordinary jurisdiction, whether the writ petition is maintainable to annul the order passed by the Tribunal, the answer to the said questions should be an emphatic '**No**'.

14. As seen from the copy of the order filed along with the writ petition, an interim order was passed by the Tribunal. The petitioner should have approached the Tribunal by making an application or an application under Section 34 of the Act, a proper and effective remedy. Without availing the proper and effective remedy, invoking the jurisdiction of this Court, the writ petition itself is not maintainable.

15. In **Bhaven Construction Vs. Sardar Sarovar Narmada Nigam Ltd.**¹, three-judge Bench of the Hon'ble Apex Court considered the filing of the writ petition against the ruling of the Arbitrator held thus:

"18. In any case, the hierarchy in our legal framework, mandates that a legislative enactment cannot curtail a constitutional right. In **Nivedita Sharma v. COAI** [(2011) 14 SCC 337], this Court referred to several judgments and held : (SCC p. 343, para 11)

"11. We have considered the respective arguments/submissions. There cannot be any dispute that the power of the High Courts to issue directions, orders or writs including writs in the nature of habeas corpus, certiorari, mandamus, quo warranto and prohibition under Article 226 of the Constitution is a basic feature of the Constitution and cannot be curtailed by parliamentary legislation — *L. Chandra Kumar Vs. Union of India* [(1997) 3 SCC 261 : 1997 SCC (L&S) 577] . However, it is one thing to say that in exercise of the power vested in it under Article 226 of the Constitution, the High Court can entertain a writ petition against any

¹ (2022) 1 SCC 75 : 2021 SCC OnLine SC 8

order passed by or action taken by the State and/or its agency/instrumentality or any public authority or order passed by a quasi-judicial body/authority, and it is an altogether different thing to say that each and every petition filed under Article 226 of the Constitution must be entertained by the High Court as a matter of course ignoring the fact that the aggrieved person has an effective alternative remedy. Rather, it is settled law that when a statutory forum is created by law for redressal of grievances, a writ petition should not be entertained ignoring the statutory dispensation.”

(emphasis supplied)

It is therefore, prudent for a Judge to not exercise discretion to allow judicial interference beyond the procedure established under the enactment. This power needs to be exercised in exceptional rarity, wherein one party is left remediless under the statute or a clear “bad faith” shown by one of the parties. This high standard set by this Court is in terms of the legislative intention to make the arbitration fair and efficient.”

16. The case before the Hon’ble Apex Court is regarding the appointment of the 2nd respondent to act as a sole arbitrator for the adjudication of the dispute. The 1st respondent filed an application under Section 16 of the Act disputing the jurisdiction, and the sole arbitrator rejected the application of the 1st respondent. Aggrieved by the said order, the 1st respondent filed a Special Civil Application invoking Article 226 of the Constitution of India before the High Court of Gujarat. Learned single Judge dismissed the same. The Division Bench of the High Court of Gujarat in Letters Patent Appeal allowed the appeal. Aggrieved by the same, the matter was carried to the Hon’ble Apex Court, and the Hon’ble Apex Court allowed the SLP and set aside the order of the Division Bench.

17. In the case at hand, as observed *supra*, the petitioner, having come to know about the interim order passed by the Arbitral Tribunal and

without availing the remedy under the Act, approached this Court complaining about the freezing of the account without challenging the order passed by the Arbitral Tribunal. In a way, the petitioner is asking this Court to set aside or annul the interim order passed by the Tribunal, and such a course is impermissible.

18. The contention of learned counsel for the petitioner that, because of freezing of the account, the livelihood of the petitioner is affected and hence, the writ petition is maintainable, in the considered opinion of this Court, is meritless, for the reason that freezing of the account was made by the respondent-bank in pursuance of the order passed by the Tribunal.

19. The judgment cited by the learned counsel for the petitioner in **State of Maharashtra Vs. Tapas D. Neogy**², has no application to the facts of this case. The Hon'ble Apex Court considered Section 102 Cr.P.C and seizure under that section. To the same effect, the judgment of the Madras High Court in **Venkatesh Babu Vs. Sabareesan**³. The judgment of the composite High Court of Andhra Pradesh in **Shafiya Begum Vs. State of Andhra Pradesh and others**⁴, and also the judgment rendered by the Davison Bench of this Court in **Dinvahi Lakshmi Kameswari Vs. State of Andhra Pradesh and another**⁵, do not support the case of the petitioner.

20. At the hearing, when this Court asked the learned counsel for the petitioner to point out any infringement or lacunae, in freezing the bank account, in pursuance of order of the Arbitral Tribunal, counsel would

² (1999) 7 SCC 685

³ CrI.O.P.Nos.16363 & 16454 of 2022 dated 25.07.2022

⁴ 2016 (3) ALD 22

⁵ 2020 (5) ALD 383 (AP) (DB)

submit that non-issuance of notice by the bank before freezing of the account, despite the order of Tribunal suffers from arbitrariness. This Court is unable to concur with the said submission. In the considered opinion of this Court, the said submission lacks merit. Since the competent tribunal passed an order directing the bank to freeze the bank account, being a judicial order, the respondent-bank should implement the order, in its letter and spirit. Indeed, the respondent bank implemented the order passed by the tribunal. The petitioner, without availing an efficacious remedy under the Act and without arraying the financial institution, filed the writ petition. On both counts, the writ petition is liable to be dismissed.

21. Given the discussion *supra*, there are no merits in the writ petition, and thus, the writ petition is liable to be dismissed.

22. Accordingly, the Writ Petition is Dismissed. No order as to costs in the peculiar facts of this case.

As a sequel, pending miscellaneous petitions, if any, shall stand closed.

JUSTICE SUBBA REDDY SATTI

Note: LR Copy to be Marked.

**B/O
PVD**