

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

WRIT PETITION No.1770 of 2025

Between:

V V RAMANA MURTHY, S/O CHALAPATI RAO, AGED ABOUT 60 YEARS, R/O 28-306, CIRCLEPETA, MACHILIPATNAM, KRISHNA DISTRICT.

...PETITIONER

AND

THE STATE OF ANDHRA PRADESH, REP. BY ITS CHIEF SECRETARY, SECRETARIAT BUILDINGS, VELAGAPUDI, AMARAVATI AND 5 OTHERS.

...RESPONDENTS.

DATE OF ORDER PRONOUNCED : **28.02.2025**

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**
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...RESPONDENTS.

! Counsel for Petitioners : Sri Turaga Sai Surya

^ Counsel for Respondents : Smt.S.Pranati, Spl. GP
Sri Srinivasa Rao Bodduluri

< Gist:

> Head Note:

? Cases referred:

- 1) AIR 1961 AP 250
- 2) 1963 SCC OnLine SC 15 : AIR 1965 SC 491
- 3) (2003) 4 SCC 712
- 4) (2006) 11 SCC 731
- 5) (2014) 1 SCC 161
- 6) (2018) 6 SCC 162
- 7) 2024 Supreme (Online)(AP) 3777
- 8) AIR 1988 SC 2181
- 9) AIR 2011 SC 1989

This Court made the following:

APHC010034242025



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

[3331]

FRIDAY, THE TWENTY EIGHTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE SUBBA REDDY SATTI

WRIT PETITION NO: 1770/2025

Between:

V V Ramana Murthy

...PETITIONER

AND

The State Of Andhra Pradesh and Others

...RESPONDENT(S)

Counsel for the Petitioner:

1. TURAGA SAI SURYA

Counsel for the Respondent(S):

1. GP FOR SERVICES I

2. NVS PRASADA VARMA

3. GP FOR SERVICES II

4. SRINIVASA RAO BODDULURI

The Court made the following:

ORDER

The above Writ Petition is filed for issuance of Writ of *Quo Warranto* against the 5th respondent calling upon him to quit the office of Full Additional Charge of Commissioner, Endowments, appointed in

pursuance of G.O.Rt.No.37 dated 24.01.2025 issued by the 1st respondent, since the appointment was made contrary to Articles 14, 25 & 26 of the Constitution of India.

2. The petitioner, who claims to be a staunch devotee of Sri Varahalakshmi Narasimha Swamy, filed the above writ petition. Averments, in the affidavit, in brief, are that the 5th respondent joined as Assistant Commissioner in the Endowments Department in the year 2000 and is presently working as Additional Commissioner-II. He served as the Executive Officer of Sri Varahalakshmi Narasimha Swamy Temple from 04.07.2007 to 01.09.2008 and from 02.03.2013 to 18.08.2019. He also worked as the Executive Officer of Sri MANSAS Trust, Vizianagaram for about 4 years in different points of time. During his tenure, the 5th respondent committed several irregularities. The 4th respondent surrendered him to the Government vide proceedings No.E1/COE15021/152/2019/2021 dated 29.06.2021. Later, a 3-men committee is appointed to inquire into the illegalities. The 3-men committee submitted a report dated 16.07.2021 to the Commissioner pointing out irregularities/illegalities committed by the 5th respondent. Thereafter, the Government issued G.O.Ms.No.494 Revenue (VIG.IV) Department dated 06.08.2021 suspending the 5th respondent, pending enquiry. The 5th respondent filed W.P.No.18251 of 2021. An interim suspension of the suspension proceedings on 06.01.2022 was granted. The 5th respondent was reinstated as Additional Commissioner-II of the Endowments Department. The 1st respondent issued U.O.Note No.2688771/SC.A/A1/2025, dated 21.01.2025 requesting the 2nd respondent to place the 5th respondent as in charge to the post of Commissioner, Endowments until further orders. Later, by way of

amendment the appointment of the 5th respondent as Commissioner, Endowments, full additional charge, was assailed.

3. Heard Sri Turaga Sai Surya, learned counsel for the petitioner, Smt.S.Pranathi, learned Special Government Pleader for Respondents 1 to 4 & 6 and Sri Bodduluri Srinivasa Rao, learned counsel for 5th respondent.

4. Learned Special Government Pleader for Respondents 1 to 4 & 6 and Sri Srinivasa Rao Bodduluri, learned counsel for 5th respondent reported no counter.

5. Learned counsel for the petitioner would submit that the 5th respondent who was suspended for committing irregularities and illegalities, in pursuance of the 3-men committee report dated 16.07.2021, approached this Court by filing W.P.No.18241 of 2021 by not disclosing facts. Taking advantage of the interim order passed by the Coordinate Bench of this Court, the 5th respondent managed the respondents 1 to 3 and was reinstated as Additional Commissioner-II. The reinstatement of the 5th respondent as Additional Commissioner-II itself is an abuse of process and further placing the 5th respondent, as an incharge, Commissioner, Endowment is nothing but perpetuating illegality.

6. Per *contra*, learned Special Government Pleader for Respondents 1 to 4 & 6 and Sri Bodduluri Srinivasa Rao, learned counsel for 5th respondent would contend that the interim order granted in W.P.No.18251 of 2021 dated 06.01.2022 is nothing to with the 5th respondent appointment as incharge of the post of Commissioner, Endowments. The 5th respondent was appointed as Additional

Commissioner-II by G.O.Rt.No.186 dated 21.03.2022 and since then he has been discharging the duties. They would also submit that the petitioner is qualified to be appointed. Learned counsel would point out that the writ petitioner failed to point out any disqualification of 5th respondent to be appointed as an incharge to the post of the Commissioner, Endowments and would submit the writ of quo warranto itself is not maintainable. They would also submit that the petitioner has no locus to file the writ petition.

7. Now, the points for consideration are:

1) Whether the petitioner had the locus to file the writ petition?

2) Whether the 5th respondent suffered any disqualification to hold the post of Commissioner, Endowments, full additional charge, as per the provisions of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987?

8. Shorn of all details, there is no dispute regarding the petitioner's appointment as Assistant Commissioner in the year 2000; petitioner's suspension vide G.O.Rt.No.494 dated 06.08.2021; interim order dated 06.01.2022 in I.A.Nos.2 & 3 of 2021 in W.P.No.18251 of 2021 and thereafter, the petitioner's reinstatement as Additional Commissioner-II vide G.O.Rt.No.186 dated 21.03.2022.

9. The 1st respondent issued U.O. Note dated 21.01.2025 (Ex.P8) requesting the Revenue (Endowments) Department to place the 5th respondent, Additional Commissioner as in charge of the post of the Commissioner, Endowments, until further orders. Thereafter,

G.O.Rt.No.37 Revenue (Endowments-I) Department dated 24.01.2025 was issued keeping the 5th respondent in Full Additional Charge to the post of Commissioner, Endowments, until further orders.

10. The *Locus Standi*, of the petitioner needs to be considered, foremost, before proceeding further. The answer to the said question is no longer *res integra*.

11. In **Mocherla Venkataraya Sarma Vs. Y.Sivarama Prasad**¹, the Division Bench of the composite High Court regarding maintainability of writ of quo warranto by a third party/relator observed thus:

11. ... At the outset, we must say that we cannot accede to the theory propounded on behalf of the Government that the relator having no personal interest in the matter could not exhibit this information against the Chairman and the Vice-Chairman. It is argued on behalf of the Government that the petitioner has no *locus standi* to seek the jurisdiction of the Court for this purpose. In our opinion, an information would lie even at the instance of a relator who has no personal interest in the matter. Information in the nature of quo warranto could be filed in the case of Municipal Corporations or local Boards on the relation of private parties. It is open to a private individual to bring it to the notice of the Court that a person who is disqualified to hold an office is still holding it. A person who is not legally entitled to hold an office should not be permitted to hold it.

“.....this proceeding by information in the nature of quo warranto will lie for usurping any office, whether created by charter alone, or by the Crown, with the consent of Parliament, provided the office be of a public nature, and a substantive office not merely the

¹ AIR 1961 AP 250

function or employment of a Deputy or servant held at the will and pleasure of others. The test to be applied is whether there has been usurpation of an office of a public nature and an office substantive in character, that is, an office independent in title.”

12. Therefore, it is competent for a voter or a member of any of the local bodies to invoke the jurisdiction of this court for the issue of information in the nature of *quo warranto*. Consequently, the proceedings could be entertained by this Court for the purpose for which its jurisdiction is invoked.

13. This leads us to the question whether the jurisdiction of this court should be exercised in a case like this. As pointed out by Tindal, C.J. in deciding whether the information should be refused or whether the rule should be granted, the test is whether there has been usurpation of an office; in other words, whether there is a legal disability to hold the office by or a legal prohibition against a person occupying a particular place.

12. Thus, given the expression of the Division Bench, in the considered opinion of this Court, the petitioner can maintain a writ of *quo warranto* and get locus. The first point is answered in the affirmative.

13. Before proceeding further, let this Court examine the qualification for appointment of the Commissioner, prescribed in Chapter-II of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short “**the Act**”) and the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Service Rules, 2002 (for short “**the Rules**”).

14. Section 3 of the Act deals with appointing Commissioner, Additional Commissioner, Regional Joint Commissioner, Deputy

Commissioner and Assistant Commissioner. Section 3 (1) prescribes that subject to the provisions of section 4, the Government shall appoint a Commissioner etc., to exercise the powers and perform the functions conferred on or entrusted to them by or under this Act. Section 3 (2) prescribes that the Commissioner, the Additional Commissioner etc., appointed under sub-section (1), exercising the powers and performing the functions as aforesaid in respect of religious institutions or endowments, shall be a person professing Hindu religion and shall cease to exercise those powers and perform those functions when he ceases to profess that religion. Section 3 (3) prescribes that the service conditions of the officers appointed under sub-section (1), shall be such as may be determined by the Government. Section 3 (4) delineates that the officers appointed under sub-section (1) shall be the employees of shall be employees of the Government.

15. Section 4 of the Act prescribes the qualifications for appointment of Commissioner etc. Section 4 (1) (a, b, c & d), which is relevant is extracted below:

- (1) A person to be appointed as the Commissioner, shall be one-
 - (a) who is holding or has held a post of the District Collector or a post not lower in rank than that of a District Collector in any other service in the State; or
 - (b) who is holding or has held a post in the Andhra Pradesh State Higher Judicial Service; or
 - (c) who has at least ten years practice as an Advocate of the High Court of Andhra Pradesh or of the Supreme Court; or
 - (d) **who has been holding the post of Additional Commissioner:** (emphasis is mine)

16. The Government issued G.O.Ms.No.245 Revenue (ENDT.1) Department dated 08.05.2002 the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Service Rules, 2002. Rule 3 deals with appointing authority and the method of appointment. Rule 2 deals with constitutions i.e. Classes and Categories of posts. Class-I, Category-1 is the post of the Commissioner. The method of appointment of the Commissioner is prescribed in Column No.4, which reads thus:

- (i) By appointment of a person who is holding or has held a post of District Collector or a post not below the rank of District Collector in any other Service in the State or
- (ii) By appointment of a person who is holding or has held a post in the Andhra Pradesh Higher Judicial Service; or
- (iii) By appointment of a person who has at least 10 years of practice as an advocate in the High Court of Andhra Pradesh Or the Supreme Court of India or
- (iv) By promotion from the category of Addl. Commissioner (Category-II of Class – I)

17. Thus, a combined reading of Sections 3 and 4 of the Act and Rule 3 of the Rules, a person holding the post of Additional Commissioner is eligible to be appointed as the Commissioner and that person shall be a person professing Hindu religion and shall cease to exercise those powers and perform those functions when he ceases to profess that religion. Section 7 of the Act prescribes that the Commissioner shall be a corporate sole and shall have perpetual succession and common seal and may sue or be sued in his corporate name. Section 8 of the Act, deals with the powers and functions of the Commissioner and Additional Commissioner.

18. Thus, Section 3 (2) of the Act mandates that the person should profess Hindu religion to hold the post of the Commissioner, Additional Commissioner etc. Section 4 (d) of the Act coupled with Rule 3, makes it clear that the person holding the post of the Additional Commissioner is eligible to be appointed as the Commissioner.

19. That being the scenario, the 5th respondent who has been discharging the duties as additional commissioner, appointed to discharge the duties as in charge Commissioner, Endowments is qualified and, prima facie, is not disqualified. The 5th respondent, once, is qualified, and further not disqualified, whether the writ of quo warranto can be issued needs further probe.

BRIEF HISTORY OF WRIT OF QUO WARRANTO

20. Quo warranto was originally a prerogative writ, which the Crown could use to inquire into the title to any office or franchise claimed by a subject. It fell out of use in the 16th Century and was replaced by information like quo warranto, which, in form, was a criminal proceeding instituted in the name of the Crown by the Attorney General or by a private prosecutor. The Administration of Justice (Miscellaneous Provisions) Act, 1938 (replaced by the Supreme Court Act, 1981) discussed the quo warranto that “where any person acts in an office to which he is not entitled and an information would previously have a lien against him, the High Court may restrain him by way of injunction and may declare the office as vacant if need be, and no such proceeding shall be taken by a person who would not previously have been entitled to apply for any information”.

21. In U.K., injunctions may be granted to restrain persons from acting in offices to which they are not entitled. Before 1938, any information like quo warranto could be laid by the Attorney General or private prosecutor to determine whether a person was entitled to a particular office. The procedure was abolished in 1938 and since then injunctions have been available for the purpose. Section 30 of the Supreme Court Act, 1981 empowers the courts to grant an injunction to restrain a person's action in an office of a public nature and of a permanent character which is held under the Crown or created by statute or Royal Charter. The application for such an injunction can only be made by way of judicial injunction/review. (**Administrative Law by HWR WADE & C.F. FORSYTH**).

22. Learned author P.P. Craig in his book "Administrative Law" while dealing with quo warranto says "An information like quo warranto was until 1938, the procedure by which challenged to the usurpation of a public office were made. In 1938, information like quo warranto was abolished and replaced by the injunction. (The Administration of Justice [Miscellaneous Provisions] Act, 1938 now Section 30 of the Supreme Court Act, 1981). The substance of the action however, remained the same and the old rule still governing only the form of the remedy was altered.

23. *Corpus Juris Secundum* defined quo warranto as "quo warranto proceeding in the nature thereof is a proper and appropriate remedy to test the right or the title to an office and to remove or oust the incumbent. It is prosecuted by the State against a person who unlawfully usurps, intrudes or holds a public office. The relator must establish that the office

is being unlawfully held and exercised by the respondent and that the relator is entitled to that office”.

24. WHARTON'S LAW LEXICON, quo warranto has been defined as "quo warranto is writ issuable out of the Queen's Bench, in the nature of writ of right, for the Crows against him who claims or usurps any office, franchise or liberty, to enquiry by what authority he supports his claim in order to determine the right. It also lies in case of non-use or long neglect of a franchise or misuse or abuse of it, being a writ commanding the defendant to show by what warrant he exercises such a franchise having never had any grant of it or having fortified it by neglect or abuse".

25. In **University of Mysore Vs. C.D. Govinda Rao**², the Hon'ble Apex Court held thus:

“6. The judgment of the High Court does not indicate that the attention of the High Court was drawn to the technical nature of the writ of quo warranto which was claimed by the respondent in the present proceedings, and the conditions which had to be satisfied before a writ could issue in such proceedings.

As **Halsbury** has observed [Halsbury's laws of England, 3rd Edn. Vol., II, p. 145]:

“An information in the nature of a quo warranto took the place of the obsolete writ of quo warranto which lay against a person who claimed or usurped an office, franchise, or liberty, to enquire by what authority he supported his claim, in order that the right to the office or franchise might be determined.”

Broadly stated, the quo warranto proceeding affords a judicial enquiry in which any person holding an independent substantive

² 1963 SCC OnLine SC 15 : AIR 1965 SC 491

public office, or franchise, or liberty, is called upon to show by what right he holds the said office, franchise or liberty; if the inquiry leads to the finding that the holder of the office has no valid title to it, the issue of the writ of quo warranto ousts him from that office. In other words, the procedure of quo warranto confers jurisdiction and authority on the judiciary to control executive action in the matter of making appointments to public offices against the relevant statutory provisions; it also protects a citizen from being deprived of public office to which he may have a right. It would thus be seen that if these proceedings are adopted subject to the conditions recognised in that behalf, they tend to protect the public from usurpers of public office; in some cases, persons, not entitled to public office may be allowed to occupy them and to continue to hold them as a result of the connivance of the executive or with its active help, and in such cases, if the jurisdiction of the courts to issue writ of quo warranto is properly invoked, the usurper can be ousted and the person entitled to the post allowed to occupy it. It is thus clear that before a citizen can claim a writ of quo warranto, he must satisfy the court, inter alia, that the office in question is a public office and is held by usurper without legal authority, and that necessarily leads to the enquiry as to whether the appointment of the said alleged usurper has been made in accordance with law or not.”

26. In **High Court of Gujarat Vs. Gujarat Kishan Mazdoor Panchayat**³, the Hon’ble Apex Court held thus:

“22. The High Court in exercise of its writ jurisdiction in a matter of this nature is required to determine at the outset as to whether a case has been made out for issuance of a writ of certiorari or a writ of quo warranto. The jurisdiction of the High Court to issue a writ of

³ (2003) 4 SCC 712

quo warranto is a limited one. While issuing such a writ, the Court merely makes a public declaration but will not consider the respective impact on the candidates or other factors which may be relevant for issuance of a writ of certiorari. (See R.K. Jain v. Union of India [(1993) 4 SCC 119 : 1993 SCC (L&S) 1128] , para 74.)

23. A writ of quo warranto can only be issued when the appointment is contrary to the statutory rules. (See Mor Modern Coop. Transport Society Ltd. v. State of Haryana, (2002) 6 SCC 269] .)”

27. In **B.Srinivasa Reddy Vs. Karnataka Urban Water Supply & Drainage Board Employees' Assn**⁴, the Hon’ble Apex Court held thus:

“49. ... The jurisdiction of the High Court to issue a writ of quo warranto is a limited one which can only be issued when the appointment is contrary to the statutory rules.

51. It is settled law by a catena of decisions that the court cannot sit in judgment over the wisdom of the Government in the choice of the person to be appointed so long as the person chosen possesses the prescribed qualification and is otherwise eligible for appointment. This Court in R.K. Jain v. Union of India [(1993) 4 SCC 119 : 1993 SCC (L&S) 1128] was pleased to hold that the evaluation of the comparative merits of the candidates would not be gone into in a public interest litigation and only in a proceeding initiated by an aggrieved person, may it be open to be considered. It was also held that in service jurisprudence it is settled law that it is for the aggrieved person, that is, the non-appointee to assail the legality or correctness of the action and that a third party has no locus standi to canvass the legality or correctness of the action. Further, it was declared that public law declaration would only be made at the

⁴ (2006) 11 SCC 731

behest of a public-spirited person coming before the court as a petitioner.”

28. The Hon’ble Apex Court in **Central Electricity Supply Utility, Odisha Vs. Dhobei Sahoo**⁵, held thus:

“21. ... the jurisdiction of the High Court while issuing a writ of quo warranto is a limited one and can only be issued when the person holding the public office lacks the eligibility criteria or when the appointment is contrary to the statutory rules. That apart, the concept of locus standi which is strictly applicable to service jurisprudence for the purpose of canvassing the legality or correctness of the action should not be allowed to have any entry, for such allowance is likely to exceed the limits of quo warranto which is impermissible. The basic purpose of a writ of quo warranto is to confer jurisdiction on the constitutional courts to see that a public office is not held by usurper without any legal authority.”

29. The Hon’ble Apex Court considering the scope of quo warranto in **Bharati Reddy Vs. State of Karnataka**⁶, held that the writ of quo warranto cannot be issued, unless the Court is satisfied that the incumbent was not eligible at all as per the statutory provisions for being appointed or elected to the public office or that he/she has incurred disqualification to continue in the said office, which satisfaction should be founded on the indisputable facts.

30. Thus, a conspectus of the above expressions of the Hon’ble Apex Court, the jurisdiction of the High Court is limited and a writ can be issued when an appointment is made contrary to the statutory rules and the

⁵ (2014) 1 SCC 161

⁶ (2018) 6 SCC 162

holder of the office doesn't qualify or suffers disqualification. The Court cannot sit in judgment over the wisdom of the Government, in the choice of the person to be appointed, so long as the person chosen possesses the prescribed qualification and is otherwise eligible for appointment. The jurisdiction of the High Court is limited and can only be issued when a person holding the public office lacks eligibility criteria and when the appointment is contrary to statutory rules. The basic purpose of, quo warranto, is to confer jurisdiction on the constitutional courts to see that public office shall not held by usurper without legal authority.

CONSIDERATION:

31. In the case at hand, as discussed supra, the 5th respondent has been discharging the duties in the cadre of Additional Commissioner and is eligible as per Section 4 of the Act read with Rule 3 of the Rules. The only disqualification, as seen from the provisions of the Act, as per Section 3 (2) of the Act is that the person should profess Hindu religion, otherwise, the person shall cease to exercise those powers and perform those functions.

32. The grievance of the petitioner as seen from the affidavit is that the 5th respondent was placed under suspension vide Ex.P4, in pursuance of, Ex.P2 report. Thereafter the 5th respondent approached this Court by filing W.P.No.18251 of 2021, wherein an interim order was granted on 06.01.2022 and he was reinstated into service vide Ex.P7 dated 21.03.2022. Thus, the petitioner would contend that the 5th respondent may misuse the office since he has been facing charges. Nowhere in the affidavit, it was pleaded about the qualification or disqualification of the 5th respondent to hold the post of Commissioner, Endowments in full additional charge.

33. It is apposite to mention here that originally the writ petition was filed seeking a writ of Mandamus and later, the petitioner sought amendment concerning the prayer one to quo warranto by filing I.A.No.3 of 2025. The said petitioner was ordered on 30.01.2025.

34. The pleadings in the writ petition play a vital role in deciding the issue. This Court emphasized the importance of pleadings in **Yenuganti Thriveni Vs. State of Andhra Pradesh**⁷, by relying upon the expression in **Bharat Singh and others Vs. State of Haryana and others**⁸ and **Narmada Bachao Andolan Vs State of M.P. and another**⁹. In **Bharat Singh's** case, the Hon'ble Apex Court observed thus:

“13. ... where a point which is ostensibly a point of law is required to be substantiated by facts, the party raising the point, if he is the writ petitioner, must plead and prove such facts by evidence which must appear from the writ petition and if he is the respondent, from the counter affidavit. If the facts are not pleaded or the evidence in support of such facts is not annexed to the writ petition or to the counter affidavit as the case may be, the Court will not entertain the point. There is a distinction between a pleading under the Civil procedure code and a writ petition of a counter affidavit. While in a pleading, that a point or a written statement, the facts and no evidence are required to be pleaded, in a writ petition or in the counter affidavit not only the facts but also the evidence in proof of such facts have to be pleaded and annexed to it.”

35. Thus, at least, there should have been an averment in the affidavit regarding the 5th respondent not possessing the qualification and

⁷ 2024 Supreme (Online)(AP) 3777

⁸ AIR 1988 SC 2181

⁹ AIR 2011 SC 1989

usurping the office of the Commissioner in full additional charge. In fact, as seen from the averments in the affidavit and the annexures filed along with the affidavit, though the petitioner pleaded that he is the person interested as per Section 2 (18) of the Act, however, it was depicted as an adversarial or proxy litigation. In respect of Ex.P1, surrender proceedings of 5th respondent to the Government; Ex.P2 the 3-men committee report; Ex.P3 communication of Special Commissioner, Endowments Department to the Principal Secretary; the petitioner did not whisper, as to how he could secure the said documents. Especially, Ex.P2, 3-men committee report and Ex.P3 communication, unless the petitioner explains that they are available in the public domain or they are part of any affidavit or counter affidavit of an earlier writ petition and he secured them by a process known to law, normally, the petitioner may not be in a position to secure those documents. When the petitioner filed Exs.P1 to P3 along with the writ petition and the entire base of the petitioner is on those documents, he should have explained in the affidavit regarding the source and his securing the said document either by way of Right to Information Act or by any other source known to law. In the absence of such an averment, in the considered opinion of this court, the writ petition is nothing short of proxy litigation and someone else is behind the institution. The petitioner is not competing for the post.

36. As seen from Paragraphs 7 and 8 of the affidavit, the apprehension of the petitioner is that if the 5th respondent assumes full additional charge of the post of Commissioner, he may misuse his power regarding enquiry etc., further fortifies that the writ petition is proxy filed at the instance of another, but not attracts the characteristics of quo warranto.

37. Given the discussion *supra*, the writ petition lacks every character to issue, a writ of quo warranto, and, in fact, it is a proxy litigation filed at the behest of some other. There are no merits in the writ petition and the same is liable to be dismissed. In the considered opinion of this Court, it is a classic misuse and abuse of process.

38. Accordingly, the Writ Petition is **dismissed with costs** quantified at Rs.25,000/- (Rupees twenty five thousand only) payable by the petitioner to the A.P. State Legal Services Authority, Amaravati, within four weeks from the date of receipt of a copy of this order. If the petitioner fails to pay/deposit the amount within the time stipulated, the authority can recover the amount by following the procedure.

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

JUSTICE SUBBA REDDY SATTI

Note: LR Copy to be marked.
B/O
PVD