

(1997) 10 AP CK 0002

Andhra Pradesh High Court

Case No: Writ Appeal No. 635 of 1997

Narendra Luther

APPELLANT

Vs

State of Andhra Pradesh and
Others

RESPONDENT

Date of Decision: Oct. 20, 1997

Acts Referred:

- Hyderabad City Police Act, 1348 - Section 21, 21(1)

Citation: (1997) 6 ALT 504

Hon'ble Judges: P.S. Mishra, C.J; P. Ramakrishnam Raju, J

Bench: Division Bench

Advocate: I. Venkatanarayana, for the Appellant; Government Pleader for Home for Respondent Nos. 1 and 3 and C.V. Ramulu, for the Respondent

Judgement

P. Ramakrishnam Raju, J.

The former Chief Secretary of the State is the appellant. He is a resident of Road No. 12, Banjara Hills, Hyderabad, and is leading a peaceful retired life evincing interest in literary and cultural pursuits. Himself and his neighbours were being disturbed round the clock with loud noise emanating from the foot of Banjara Hills area within the jurisdiction of Humayun Nagar Police Station. On his complaint, one of the Police Officers from the said Police Station visited him to ascertain where the noise was coming from and thereafter the noise stopped for some time. Again after a few days, noise started in a very loud manner so as to disturb the entire neighbourhood. On 12-10-1995 the petitioner contacted Humayun Nagar Police and complained to the Sub-Inspector of Police, who is the third respondent. But, as there was no relief, the petitioner again contacted the third respondent in the afternoon and the third respondent, instead of taking action, quipped that the noise was coming from a mosque and he could do nothing about it. When the petitioner told him that such noises have been stopped earlier and that he should ensure that the volume was kept within the limits as prescribed under the City Police Act, the third respondent

raised his voice and asked him to make a complaint in writing and asked what the wants. The petitioner felt that the third respondent being the responsible Police Officer was not only highly discourteous but disregarded the genuine complaint and thus failed to discharge his statutory duties as Police Officer. The petitioner then kept quiet, but on the next day, he wrote a letter to the Commissioner of Police brining to his notice the rude behaviour and inaction of the third respondent and requested him politely to enquire into the matter and take appropriate action against him. The second respondent did not even care to reply or acknowledge the said letter. Waiting for a period of three months, the petitioner again on 29-1-1996 reminded the second respondent about his earlier letter and requested him to take action. The petitioner happened to meet the second respondent at a function and there again he reminded him of his letters and the second respondent told him that he was taking action. But, the second respondent did not bother to acknowledge his letters nor taken any action against the third respondent. As the efforts of the petitioner to move the second respondent, who is a Senior Police Officer and Head of the City Police, failed, he was constrained to address a letter on 7-3-1996 to the Chief Secretary of Government of Andhra Pradesh and requested him to use his good offices to move the second respondent to respond. The Chief Secretary promptly on 12-3-1996 expressed his regret for the attitude of the Commissioner of Police and assured that he would look into the matter. However, the second respondent, after a lapse of six months, presumably on instructions from the Chief Secretary wrote a D.O. letter to the petitioner on 2-4-1996 enclosing a report of third respondent. The allegation in the report that the third respondent has taken immediate action on the first complaint of the petitioner on 12-10-1995 is far from truth and had it been so, there would not have been any further occasion for the petitioner to complain over and again. Therefore, the petitioner filed writ petition for redressal of his grievance for the insult meted out to him by the inefficient, rude and discourteous subordinate Police Officer hoping for a better system with full of human touch.

2. The third respondent in his counter-affidavit denied the allegation of discourteous behaviour on his part. He also denied that he had committed any act of disrespect of misconduct against the petitioner. In fact, on receipt of complaint through telephone on 12-10-1995 from the petitioner, he rushed to the spot with available out-post personnel and checked the nuisance in the entire First Lancer and Masab Tank areas for 45 minutes. But, no noise was heard at that time. Hence, he left instructions to out-post personnel to patrol the areas vigorously and bring the violators to the Police Station for further action. At 12 hours again the third respondent received a phone call from the petitioner that no action was taken on his complaint and the third respondent explained to him about his visit and that they could not notice any voice. However, he instructed the out-post staff to keep a watch on the problem. In fact he had also instructed the Head Constable 3507 to verify about the sound. The complaint of the petitioner has been entered in out- post

General Diary of Humayun Nagar Police Station and accordingly relevant entries were made by out-post Head Constable 3507 in the General Diary. The allegation of the third respondent on the contrary is that the petitioner was found in an irritating mood and threatened the third respondent saying that he would report against him to the Director General of Police and cut off the telephone while they were talking at 1200 hours on 12-10-1995. The second respondent in his counter - affidavit also states that he received letter dated 13-10-1995 and 29-1-1996 addressed by the petitioner. He called for the explanation of the third respondent after receipt of first letter dated 13-10-1995. The third respondent submitted his explanation and having been satisfied with the same, he sent a D.O. letter dated 2-4-1996 together with the explanation. He denied that no action was initiated by him. It is denied that there is any misconduct or negligence of duties on the part of the third respondent or himself.

3. On the above facts, the learned Single Judge who disposed of the writ petition, felt that the grievance of the petitioner appears to be a reaction of a highly placed sensitive person being a retired Chief Secretary and he might have been offended by the loud voice of the third respondent. The second respondent has called for the explanation of the third respondent and he was satisfied with the same and as such, no motive could be attributed to the second respondent in coming to that conclusion. The learned Judge concluded that a writ of mandamus would issues only when there is a statutory violation or violation of principles of natural justice in performing the statutory duty by any authority and as such, how the police should behave with the citizens is not a matter for the Court to determine in exercise of its jurisdiction under Article 226 of the Constitution. As the writ petition was dismissed taking the above view, this writ appeal by the petitioner.

4. No doubt, u/s 21 of the Hyderabad City Police Act, the Commissioner of Police of Hyderabad City may from time to time make rules not inconsistent with the Act in respect and pertaining to the using of loud- speakers in any public place or places of public entertainment after obtaining sanction of the Government before enforcing the Rules. Therefore, there is a statutory obligation cast on the Commissioner of Police to abate the nuisance or sound pollution by making suitable rules. In fact, notification was issued by the Head of Office of the City Police, Hyderabad, as early as 26 Khurdad 1345 Fasli prohibiting playing of music at any time on a public road or a public place without obtaining the licence from the Commissioner of City Police. Of course, it goes without saying that it is always open to the Commissioner to grant or refuse such requests for permission for playing music or using loudspeakers in his discretion, which discretion has to be exercised in a judicious way. It is equally open to him while granting such permission, to impose such restrictions as may be deemed necessary in the public interest and public order. It need not be overemphasised that regulation of sound pollution in the residential localities is a matter which requires serious attention of the Commissioner of Police and if such sound pollution exceeds normal levels, the same has to be brought down sternly

without losing time.

5. In the instant case, the complaint of the petitioner is that he had a raw deal at the hands of respondents 2 and 3 when he made a complaint about the loud noise caused in the locality round the clock. The respondents 2 and 3 have tried to justify in their counter-affidavits that they have taken proper action and there is no let up in taking suitable action. No doubt, on the factual matrix as placed before the Court, writ of mandamus in stricto sensu may not issue as there is no infringement of a statutory right or violation of statutory duty complained of by the petitioner against the respondents. Nonetheless, the statutory authorities serving public have to exercise high degree of restraint and exhibit utmost courtesy and politeness while dealing with public when grievances are genuine. Their conduct should be emulated and praiseworthy ensuring immediate relief to the public who approach them, with genuine grievance.

6. The controversy which triggered off two years ago has become stale and sterile. Therefore, we do not feel justified to examine the grievance in detail at this length of time. Suffice, if a direction is issued to the respondents to examine any complaint made by the petitioner, if required to be examined, shall be examined in accordance with law and prompt action taken expeditiously. With the above observation, the writ appeal is disposed of.