

APHC010578682024



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

[3329]

FRIDAY ,THE THIRD DAY OF JANUARY
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

WRIT PETITION NO: 30264/2024

Between:

Ca Akshay Jain

...PETITIONER

AND

The Institute Of Chartered Accountants Of India and
Others

...RESPONDENT(S)

Counsel for the Petitioner:

1.MANOJ KUMAR BETHAPUDI

Counsel for the Respondent(S):

1.

The Court made the following ORDER:

This Writ Petition is filed under Article 226 of the Constitution of India
seeking the following relief:

“to issue an appropriate writ order or direction more particularly
one in the nature of writ of mandamus declaring the proceedings
Dated 24.10.2024 of the 2nd respondent Disciplinary Committee in
removing the name of the petitioner from the Register of Members as
illegal arbitrary and violative of Articles 14, 19 and 21 of the
Constitution of India and consequently set aside and to pass such
other order or orders...”

2. Heard the learned counsel for the petitioner and Sri Varun Bireddy, learned counsel representing for the respondents.

3. The learned counsel for the petitioner submits that the petitioner is an associate member of the 1st respondent's institution and has been practicing his profession since 15.12.2016. While so, the Director General of GST Intelligence filed a complaint on 25.01.2021, alleging that the petitioner was involved in creating fake GST invoices and claiming Rs.5.08 crores as in the form of input tax credit without there being any actual supply of goods or services. He further submits that, the 2nd respondent herein is proceeding without following the due procedure as contemplated under the Chartered Accountants Act, 1949 and without providing an opportunity to the petitioner to cross-examine the witnesses. As a mere formality, the 2nd respondent completed the disciplinary proceedings and passed the impugned order dated 24.10.2024, holding that the petitioner is guilty of the alleged offense and proposing an action as per the Chartered Accountants Act, 1949. Aggrieved by the same, the present writ petition.

4. On the other hand, the learned counsel, Sri Varun Byreddy, representing respondent Nos. 1 and 2, furnished written instructions dated 23.12.2024, wherein the respondents had proposed an action in the form of punishment by removing the petitioner's name from the register of members of the 1st respondent's institute for a period of five years, effective from 03.01.2025. He further submits that, as per Section 22(G) of the Act, the

petitioner has an alternative remedy by way of appeal against any order passed by the 2nd respondent, if the delinquent is aggrieved by the same. He further submits that in the present case the impugned order passed by the 2nd respondent is squarely amenable to appeal under Section 22(G) of the Act. However, instead of availing this effective alternative statutory remedy, the petitioner has approached this court without alleging that the impugned order was passed with malafide intention or without following the procedure contemplated under the law. In view of the compliance of the statutory provisions as required, the present impugned order does not warrants interference by this court.

5. Having regard to the submissions made by the learned counsel for the petitioner and the learned counsel appearing for the respondents, and without going into the merits of the case, in view of the statutory appeal provided under Section 22(G), which is extracted below:

22G. Appeal to Authority:- (1) Any member of the institute aggrieved by any order of the Board of Discipline or the disciplinary Committee imposing on him any of the penalties referred to in sub-section (3) of section 21A and sub-section (3) of section 21B, may within ninety days from the date on which the order is communicated to him, prefer an appeal to the authority.

Provided that the Director (Discipline) may also appeal against the decision of the Board of Discipline or the disciplinary committee to the authority, if so authorized by the counsel, within ninety days.

Provided further that the authority may entertain any such appeal after the expiry of the said period of ninety days, if it is satisfied that there was sufficient cause for not filing the appeal in time.

(2) the authority may, after calling for the records of any case, revise any order made by the Board of Discipline or the disciplinary

Committee under sub-section (3) of section 21A and sub-section (3) of section 21B and may---

(a) confirm modify or set aside the order;

(b) impose any penalty or to set aside, reduce, or enhance the penalty imposed by the order;

(c) remit the case to the Board of Discipline or Disciplinary Committee for such further enquiry as the authority consider proper in the circumstances of the case; or

(d) pass such other order as the authority thinks fit:

Provided that the authority shall give an opportunity of being heard to the parties concerned before passing any order.

6. The petitioner should invoke the statutory appeal challenging the impugned order passed by the 2nd respondent. Considering the facts and circumstances, the urgency as contended by the learned counsel for the petitioner, there shall be a stay on the publication in the Gazette of India regarding the removal of the petitioner's name from the register of members. This stay is effective from today i.e., on 03.01.2025 till the date of filing an interlocutory application for interim stay along with the statutory appeal before the Appellate authority by the petitioner. Therefore, the petitioner is at liberty to initiate a statutory appeal before the appellate authority within a period of four (04) weeks from today. The petitioner also entitled to file an interlocutory application along with the statutory appeal, seeking interim suspension of the impugned proceedings dated 23.12.2024. The learned counsel for the respondents is specifically directed to communicate the order of this court to the respondents.

With the above said direction, the Writ Petition is disposed of. There shall be no order as to costs.

Consequently, Miscellaneous Petitions, if any, pending in the writ petition shall stand closed.

03.01.2025

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VENKATESWARLU NIMMAGADDA, J

107

HON'BLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

WRIT PETITION No.30264 of 2024

03.01.2025

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