

IN THE HIGH COURT OF ANDHRA PRADESH

AT AMARAVATHI

W.P No. 13204 OF 2020

BETWEEN:

Shri Done Sambashiva Rao & Anr

....Petitioner

AND

Union of India & Others

...Respondents

ADDITIONAL AFFIDAVIT

I, Lalita T. Hedao, W/o Shri Tejram Hari Hedao, aged about 49 years R/o New Delhi working as Under Secretary in the Ministry of Home Affairs do hereby solemnly affirm and sincerely state on oath as follows.

- 1) I am Under Secretary in the Ministry of Home Affairs and in my official capacity; I am well acquainted with the issues raised in the Rejoinder filed in the above writ petitions. I am competent to swear and affirm the present affidavit on behalf of the 1st Respondent.
- 2) That I have gone through the contents of the Rejoinder filed by the Petitioner in this Hon'ble Court in W.P No. 13204 of 2020 filed under Article 226 of the Constitution of India and have understood the contents thereof.
- 3) It is humbly submitted that the statements in para 2 of the rejoinder filed by the Petitioner is totally wrong and hence denied. Casting aspersions on the respondent herein is highly uncalled for. The respondent is only submitting the legal position before this Hon'ble Court for just adjudication

Attested
[Signature]
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(HARIKUMAR P.)
अनुभाग अधिकारी
Section Officer
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[Signature]
(ललिता टी हेडाओ)
(Lalita T. Hedao)
अवर सचिव/अंडर सेक्रेटरी
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of the issue which is subject of this additional affidavit. The repeated objectionable and uncalled for aspersions against the Union of India in the Rejoinder submitted by the writ petitioner is condemnable.

4) In respect of the petitioner's contention that the phrase 'a capital for the State of Andhra Pradesh' used in Section 6 of the Andhra Pradesh Reorganisation Act, 2014(Act) and Section 94 (3) & (4) read with the Thirteenth Schedule of the Act connotes that the Act mandated a single Capital City for the State of Andhra Pradesh, it is respectfully submitted that Section 13 of 'The General Clauses Act, 1897' states that in all Central Acts and regulations, unless there is anything repugnant in the subject or context, words in the singular shall include the plural and vice versa.

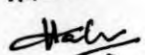
The relevant Section of the 'The General Clauses Act, 1897' is quoted as:

'Gender and number.—In all Central Acts and Regulations, unless there is anything repugnant in the subject or context,— (1) words importing the masculine gender shall be taken to include females; and (2) words in the singular shall include the plural, and vice versa.'

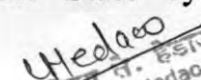
Thus, it is made amply clear that the interpretation of the petitioner on the above issue is shallow.

5) It is respectfully submitted that Section 94 (3) & (4) of the Act only provides for financial assistance by the Central Government to the State of Andhra Pradesh for creation of essential facilities in their new capital and to further facilitate denotification of degraded forest land, if necessary, for the same. The provision only talks about providing financial assistance by the Central Government for the new capital as chosen by the State of Andhra Pradesh and not for deciding a capital for the State by the Central Government.

Attested



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Section 94 of the Andhra Pradesh Reorganisation Act, 2014 is quoted below:

'Fiscal measures including tax incentives.—

(1) The Central Government shall take appropriate fiscal measures, including offer of tax incentives, to the successor States, to promote industrialisation and economic growth in both the States.

(2) The Central Government shall support the programmes for the development of backward areas in the successor States, including expansion of physical and social infrastructure.

(3) The Central Government shall provide special financial support for the creation of essential facilities in the new capital of the successor State of Andhra Pradesh including the Raj Bhawan, High Court, Government Secretariat, Legislative Assembly, Legislative Council, and such other essential infrastructure.

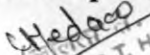
(4) The Central Government shall facilitate the creation of a new capital for the successor State of Andhra Pradesh, if considered necessary, by denotifying degraded forest land.'

6) The Government of Andhra Pradesh had earlier chosen Amaravati as the capital of the State and had notified the same vide their Government Order dated 23/04/2015. Based on the said notification, Survey of India incorporated Amaravati as capital of Andhra Pradesh in the latest political map of India (English 9th Edition 2019 and Hindi 6th Edition 2020).

7) In the Andhra Pradesh Reorganisation Act, 2014 provisions have been laid down for the Capitals of the successor States. As per provisions laid down in the Act, the Central Government had constituted an Expert Committee on 28-03-2014 under the chairmanship of Shri K C

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Sivaramakrishnan, IAS Retd, to study alternatives for a new capital for the State of Andhra Pradesh. The said Committee submitted its report on 30-08-2014, which was sent to Government of Andhra Pradesh on 01-09-2014 for taking final decision.

Section 5 of the Andhra Pradesh Reorganisation Act, 2014 is quoted as under:

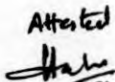
5(1) On and from the appointed day, Hyderabad in the existing State of Andhra Pradesh, shall be the common capital of the State of Telangana and the State of Andhra Pradesh for such period not exceeding ten years.


(2) **After expiry of the period referred to in sub-section (1), Hyderabad shall be the capital of the State of Telangana and there shall be a new capital for the State of Andhra Pradesh.**

Explanation.—In this Part, the common capital includes the existing area notified as the Greater Hyderabad Municipal Corporation under the Hyderabad Municipal Corporation Act, 1955 (Hyderabad Act No. 2 of 1956).

The law is unambiguous on the issue of the capital for State of Andhra Pradesh. However, the Government of Andhra Pradesh decided to shift from the common capital and notified its capital on 23.04.2015 soon after an year of the Andhra Pradesh Reorganisation Act 2014 coming into force.

8) Under Article 3 of the Constitution of India, there is provision only for creation of new States and other related matters. No provision in respect of capital is laid down in the Article 3 of the Constitution of India. The Capital City of the erstwhile Andhra Pradesh was situated in Telangana region and as such it was made the capital of Telangana.

Attested

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9) It is respectfully submitted that Section 30 of the Act provides that the High Court of Judicature at Hyderabad shall be the common High Court for the State of Telangana and the State of Andhra Pradesh till a separate High Court for the State of Andhra Pradesh is constituted under article 214 of the Constitution read with section 31 of the said Act.

10) Sub-section (1) of Section 31 of the Act provides that subject to the provisions of section 30, there shall be a separate High Court for the State of Andhra Pradesh and the High Court of Judicature at Hyderabad shall become the High Court for the State of Telangana. Sub-section (2) of section 31 of the Act provides that the principal seat of the High Court of Andhra Pradesh shall be at such place as the President may, by a notified Order, appoint.

11) In pursuance of article 214 of the Constitution and in exercise of powers conferred under clause (a) of sub-section (1) of section 30, sub-section (1) of section 31 and sub-section (2) of section 31 of the Andhra Pradesh Reorganisation Act, 2014, the President vide Order dated 26/12/2018 constituted a separate High Court for the State of Andhra Pradesh, namely, the High Court of Andhra Pradesh, from the 1st day of January, 2019 with the principal seat of such High Court at Amaravati in the State of Andhra Pradesh and the High Court of Judicature at Hyderabad shall become the High Court for the State of Telangana. Notification of President's Order regarding constitution of a separate High Court for Andhra Pradesh with principal seat at Amaravati by the Central Government cannot be construed as the Central Government's decision to declare Amaravati as Capital of Andhra Pradesh, as the Principal Seat of High Court need not necessarily be in the Capital City of the State.

AH 2014
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12) For the aforementioned facts and circumstances, it is respectfully submitted that this Hon'ble Court may be pleased to pass such order(s) as deemed fit and proper in the interest of justice.

Solemnly affirmed and signed

Before me onSeptember 2020

ATTESTOR


(हरिकुमार पि.)
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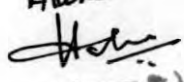

DEPONENT
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VERIFICATION

I, Lalita T. Hedao, W/o Shri Tejram Hari Hedao, aged about 49 years R/o New Delhi working as Under Secretary in the Ministry of Home Affairs do hereby solemnly affirm and sincerely state that the averments made in the Counter are true and correct to the best of my knowledge and belief.

DATE

NEW DELHI

Attested

(हरिकुमार पी.)
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