

HIGH COURT OF JUDICATURE AT HYDERABAD  
FOR THE STATE OF TELANGANA AND  
THE STATE OF ANDHRA PRADESH

(Rule 4 (e) of the High Court of Judicature at Hyderabad for the States of  
Telangana and Andhra Pradesh PUBLIC INTEREST LITIGATION RULE, 2015)

W.P.(PIL) NO. OF 2017

Between:

Forum for Good Governance,  
(A non-profit organization Regd., vide Registration  
No. 653 dt.19.10.2009), Having its Registered office  
at Flat No. 204, G.K.R. Mansion, Saifabad,  
Lakdikapul, Hyderabad – 500 004  
rep. by its Secretary, Sri M Padmanabha Reddy,  
S/o Sri M Ganga Reddy, aged about 76 years,  
R/o Plot No. 91, Amar Society, Madhapur,  
Hyderabad- 500 033, Bank A/c.No.02181001101048  
Andhra Bank, Jubilee Hills, Hyderabad.  
Pan Number: ABLPM4417D,  
Aadhar ID No. 572433865174,  
Mobile No. 98492-69105,  
Email address: ffggapindia@gmail.com

...Petitioner

AND

1) The State of Telangana  
Rep. by its Chief Secretary to Govt.  
General Administration Dept., (Cabinet) (GAD)  
Secretariat, Hyderabad – 500 022,  
Telangana State.

2) The Special Chief Secretary to Government  
Panchayat Raj & Rural Development Department  
Secretariat, Hyderabad – 500 022.

.....Respondents

1. PARTICULARS OF THE CAUSE/ORDER AGAINST WHICH THE  
PETITION IS MADE:

i) SUBJECT MATTER IN BRIEF:

The Petitioner is aggrieved by the inaction of the Respondents in not appointing State Finance Commission as illegal, arbitrary, violation of Article 243-I of the Constitution of India and consequently to direct the respondent State Government to take steps to constitute the State Finance Commission. Hence the writ petition (PIL).

PARTICULARS OF PETITIONER:

2.0 I submit that Petitioner organization is a nonprofit organization registered vide Registration No. 653 on 19-10-2009 founded by a few retired All India Service Officers and social activists who have all come together under the leadership of a Retired High Court Judge, with an objective to secure good governance at all levels, to resist the state abdicating its primary responsibility in providing good quality education and health services for all, build public opinion for the overdue electoral reforms, strive for enabling the various constitutional and autonomous institutions of the State to function effectively, campaign for the much-needed decentralization and reforms in administration etc. Copy of registration is filed as Annexure P1 and it is prayed that the same may be treated as part and parcel of this affidavit. The organization runs on the contributions from its founder members and other

persons interested in furthering the cause of the forum. I had already collected the relevant documents and filing this Writ Petition (PIL) before this Hon'able Court.

LOCUS STANDI:

2.1 I hereby affirm and state on oath that the petitioner(s) herein has/have no personal interest in the subject matter of this petition. The petitioner(s) hereby undertake(s) to pay exemplary costs and/or compensatory damages as directed by this Court in the event of a contrary finding upon adjudication by the Court that the writ petition is filed for extraneous/personal considerations or with an oblique motive. This petition is being filed challenging the inaction of the Respondents in not constituting the State Finance Commission as illegal, arbitrary, against the principles of natural justice and consequently to direct the respondent state Government to appoint the Chairperson and members of State Finance Commission. Therefore this Hon'able Court has got both territorial and pecuniary jurisdiction to entertain the above Public Interest Litigation Petition under the Public Interest Litigation Rules, 2015, since the cause of action arose in the State of Telangana, which is well within the jurisdiction of the Hon'able Court.

2.2. I further submit that the Petitioner had not involved in any Civil, Revenue, and Criminal Litigation in any, capacity before any Court or Tribunal. However, the Petitioner in its capacity as a Non-Governmental organization has filed Public Interest Litigations before this Hon'able High Court, some of which are as follows:

i. PIL No. 25998/2010

Forum for Good Governance filed a PIL in the High Court for not holding elections to the Municipalities and Municipal Corporations in the state and appointing special officers to such Municipalities and Municipal Corporations.

ii. PIL No. 39/2012

Forum for Good Governance filed a PIL against the increase of water tariff for the water supplied by HMWS&SB. Case is pending in the high court. Listing date is 1-12-2015

iii. PIL No. 132/2012

Forum for Good Governance filed a PIL requesting to direct the GHMC and Water board to construct RWHS in GHMC area. The above authorities agreed to take up the RWHS in the city. Accordingly PIL disposed of.

iv. PIL No. 236/2013

Forum for Good Governance filed a PIL requesting to direct the HMWS&SB to replace all damaged and rusted pipelines to prevent contamination and leakage of drinking water supplied by water board. The case is pending.

Listing date is 1-6-2016

v. PIL No. 3/2015

Forum for Good Governance filed a PIL requesting to direct Government of Telangana to conduct elections to GHMC. The Hon'ble High Court directed the Government /State Election Commission to complete the elections by end of January 2016.

vi. PIL No. 155/2015

Forum for Good Governance filed a PIL requesting to direct the Govt. of Telangana to take steps to fill up all the vacant posts of Vice chancellors in the state of Telangana. The court agreed the submissions made by the Advocate General agreeing to complete the procedure for appointing the Vice Chancellors within 3 to 4 months. PIL is accordingly disposed of.

vii. PIL No. 233/2015

Forum for Good Governance has filed a PIL requesting the Government to complete all the incomplete houses taken up under Indiramma Indlu programme to

avoid wastage of funds. The case was suitably ordered with directions given to the government and disposed of.

3. DECLARATION AND UNDERSTANDING OF THE PETITIONER:

I, M. Padmanabha Reddy, S/o M Ganga Reddy, aged about 76 years, Occ: Retired Government Officer, and presently functioning as the Secretary of the Petitioner organization, resident of Plot No. 91, Amar Society, Madhapur, Hyderabad- 500 033, do hereby swear under oath and sincerely affirm as follows:

- 3.1 That the present petition is being filed by way of Public interest Litigation and the Petitioner does not have any personal interest in the matter. I am a retired All India Services Officer, presently functioning as the Secretary of the Petitioner organization herein and as such I am well acquainted with the facts of this case and able to depose as follows:
- 3.2 That the entire litigation cost including the Advocate's fee and other charges are being borne by the Petitioner. The PAN number of the Petitioner is already mentioned above.
- 3.3. That thorough research has been conducted in the matter raised through this petition. All the relevant documents pertinent to the subject are discovered by the Petitioner to this petition. The Petitioner collected the information through following the procedure stipulated by the Authorities and filing applications under R.T.I. Act.

3.4 That to the best of Petitioner's knowledge and research, the issue that is raised was not dealt with or decided and that a similar or identical petition was not filed earlier by the Petitioner.

I submit that, I am filing this PIL after obtaining the relevant documents and after submitting representations, consequently after having been completely satisfied that the Respondents are not making efforts to constitute the State Finance Commission as illegal, arbitrary, against the principles of natural justice and transparency and consequently to direct the respondent state Government to take immediate steps for appointment of State Finance Commission.

3.5 That the Petitioner understood that in the course of hearing of this Petition, this Hon'able Court may require any security to be furnished towards costs or any other charges and the petitioner shall comply with such requirements. This issue was not dealt with or decided earlier and I have not filed any similar or identical petitions earlier.

I also understood that in the course of hearing of this petition, I may be required to furnish any security towards any cost or any other charges and I will comply with such requirement.

FACTS IN BRIEF:

4.0 I submit that Article 243-I of Constitution of India provides for Constitution of

State Finance Commission (S.F.C.) -

The Governor of a State shall, as soon as may be within one year from the commencement of the Constitution (Seventy – third Amendment) Act, 1992, and thereafter at the expiration of every fifth year, constitute a Finance Commission to review the financial position of the Panchayats and to make recommendations to the Governor as -

- i) To distribute between the State and Panchayats of the net proceeds of the taxes, duties, tolls and fees livable by the state which may be divided between them under this part and the allocation between the Panchayats at all levels of their respective shares of such proceeds.
- ii) The determination of taxes, duties, tolls and fees which may be assigned to or appropriated by the Panchayats.
- iii) Grant-in-aid to Panchayats from the consolidated fund of the state.
- iv) Measures needed to improve the financial position of Panchayats.

4.1 I submit that as per sec. 235 of P.R. Act 1994 the Governor shall on the recommendations of the state government constitute a Finance Commission.

4.2 The State Finance Commission shall consist of chairmen and four other members.

4.3 I submit that accordingly for new state of Telangana the Governor of



Telangana has issued notification to constitute S.F.C. for the State of Telangana. The said notification was published in the Telangana gazette dated 16-3-2015 and accordingly orders issued vide G.O. Ms.No.31 dated 16-3-2015. Annexure P2 and it is prayed that the same may be read as part and parcel of this affidavit.

I submit that after issue of said G.O. in March 2015 till now the Chairperson and members were not appointed. The petitioner organization, in an effort to obtain details of action, if any taken by the government on the orders of the governor filed R.T.I. applications with Spl. Chief Secretary, Panchayat Raj & Rural Development (P.R.&R.D.). In response to the application the Spl. Chief Secretary (P.R.&R.D) informed us on 3-8-2016 that the “File is under process” Annexure P3 and it is prayed that the same may be read as part and parcel of this affidavit.

4.4 I further submit that the petitioner is continuously pursuing with Spl. Prl. Secretary, P.R. & R.D. to know the stage of appointment of S.F.C., The Spl. Chief Secretary (P.R.&R.D.) on 25-11-2016 informed that the Hon’ble Chief Minister desired to re-examine the proposal in detail Annexure P4 and it is prayed that the same may be read as part and parcel of this affidavit.

4.5 I submit that I have submitted a representation to H.E. the Governor of Telangana with a request to take suitable action for appointment of chairperson and members to State Finance Commission. So far no action has been taken on my representation Annexure P5 and it is prayed that the same may be read as part and parcel of this affidavit.

4.6 I submit that I have submitted a representation to respondent first cited to take suitable action in the matter so far no action is taken Annexure P6 and it is prayed that the same may be read as part and parcel of this affidavit.

4.7 I submit that one of the essential reasons for introducing 73<sup>rd</sup> Amendment to Constitution of India is that directive principles of state policy through Article 40 of Constitution of India provide for organization of village panchayats and to endow them with such powers and authority as may be necessary to enable them to function as units of self government. I submit that as per Article 243 of Constitution of India, the panchayat raj institutions are constituted at three levels i.e., (i) district level, (ii) intermediate level between a village and district (iii) the panchayat at village level. I submit that panchayats are required to be endowed with power and authority as may be necessary to enable them to function as institutions of self government and devolution of powers and responsibilities for their economic development and social justice. I submit that for achieving the objectives enshrined in 73<sup>rd</sup> Constitutional Amendment the state of A.P. enacted A.P Panchayat Raj Act, 1994 providing for establishment of gram panchayats, mandal parishads and zilla parishads. The statement of objectives and reasons for the above enactment is that it is to strengthen and revitalize panchayat

raj bodies so that they can sub serve the needs of teaming millions who live in rural areas.

SOURCE OF INFORMATION:

5. The Petitioner collected the information through R.T.I. Act.

6. NATURE OF EXTENT OF INJURY CAUSED/APPREHENDED:

I submit that the local bodies i.e. Panchayat Raj institutions (PRI) and Urban Local Bodies (ULBs) are the third tire of governance in India, which are supposed to take care of civic amenities of the people. The state government is not transferring sufficient funds to PRIs and ULBs with the result people are suffering from Bad roads, Ineffective drainage system Insufficient and unhygienic supply of drinking water, Problems of disposal of solid waste, Unhygienic conditions mostly in slums leading to spread of diseases. If State Finance Commission is constituted it will properly apportion the funds between state government and the PRIs and ULBs and local bodies with sufficient funds at their disposals will provide basic amenities to people.

7. ANY REPRESENTATION ETC., MADE:

I submit that, the Petitioner made representations to H.E. the Governor and the respondent's one and two but no action has been taken in respect of the above issue.

8. DELAY IF ANY:

I submit that there is NO DELAY in filing this Writ Petition.

9. DOCUMENTS RELIED UPON ARE:

- i) Copy of Certificate of Registration dated 19.10.2009
- ii) Copy G.O. Ms. No. 31, PR&RD (Pts.III) Dept., dated 16-3-2015
- iii) Copy of Lr.No.7506/Pts.III/A1/2016-1 dated 03.08.2016.

- iv) Copy of Lr.No.7506/Pts.III/A1/2016-4 dated 25.11.2016.
- v) Copy of L. No. FGG/GOV/REP/115/2016 dt.05.11.2016.
- vi) Copy of L. No. FGG/GOV/REP/129/2016 dt.21.11.2016.
- vii) Copy of Resolution dated 17.01.2017.
- viii) Copy of the Adhaar Card of the petitioner.
- ix) Copy of PAN Card of petitioner.

9A) In the circumstances stated above, the petitioner has no efficacious alternative remedy except to seek the Redressal from this Hon'ble Court seeking the indulgence of this Hon'ble Court to exercise its extraordinary original jurisdiction vested in this Hon'ble Court by virtue of Article 226 of the Constitution of India.

10. MAIN RELIEF PRAYED IS AS FOLLOWS:

It is respectfully prayed that this Hon'ble Court, in the interests of justice be pleased to issue a Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in not constituting the State Finance Commission as required under Article 243-I of the Constitution of India as arbitrary, illegal and violative of the Constitutional Mandate and consequently to direct the respondents to constitute State Finance Commission and pass such other order or orders as this Hon'able court may deem fit and proper in the circumstances of the case and in the interest of justice.

11. INTERIM PRAYER:

It is hereby prayed that this Hon'ble Court may be pleased to direct the Respondents to constitute State Finance Commission as per Article 243-I of

Constitution of India forthwith, pending disposal of the above writ petition (PIL) and pass such other order or orders as this Hon'able Court may deem fit and proper in the circumstances of the case.

12. CAVEAT:

I submit that no notice has been received of lodging a Caveat by the Respondents.

Hyderabad

Petitioner

Before me  
Advocate, Hyderabad

VERIFICATION STATEMENT

I, M. Padmanabha Reddy, S/O Sri M Ganga Reddy, aged about 76 years, Occ: Retired Government Officer, and presently functioning as the Secretary of the Petitioner organization, resident of Flat No. 204, G. K. R. Mansion, Lakdi-Ka-Pul, Hyderabad, the Petitioner herein whatever facts stated above in the above affidavit are true to the best of my knowledge and belief. Hence, verified on this Hyderabad.

Hyderabad

Petitioner

Before me

Advocate, Hyderabad