

AFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Petition (227) No. 821 of 2015**

1. Manish Travels Proprietor Manish Jain S/o Bhagchand Jain, aged about 42 Years, G.E. Road, Durg, District Durg R/o Padmanabhpur, Tahsil and District Durg, Chhattisgarh
2. Payal Travels, through Partner Piyush Deshlahra, S/o Shri Prakash Deshlahra, aged about 32 years, G.E. Road, Durg, District Durg, Chhattisgarh, R/o 1786, New Adarsh Nagar, Drug, Tahsil and District Durg, Chhattisgarh

---- Petitioners**Versus**

1. Regional Transport Authority, Bastar, Divison Jagdalpur, District Bastar, Chhattisgarh
2. Kanker Roadways, through Narendrapal Singh Garcha, Partner M/s Kanker Roadways, Civil Lines, Raipur, District Raipur, Chhattisgarh

---- Respondents

For Petitioners	:	Shri Ajay Shrivastava, Advocate
For Respondent no.1/State	:	Shri S. C. Khakhariya, Dy. A.G.
For Respondent no.2	:	Shri Shailendra Bajpai and Shri J. K. Gupta, Advocates

Hon'ble Shri Justice P. Sam Koshy**Order On Board****06.11.2015**

Through the present writ petition the petitioners have challenged the order dated 07.07.2015 passed by the State Transport Appellate Tribunal, Raipur whereby the learned Tribunal has allowed the appeal preferred by the respondent no.2 and after setting aside the order dated 21.04.2014 passed by the Regional Transport Authority, Bastar Division, Jagdalpur directed it to pass an appropriate order within 30 days subject to the petitioners fulfilling the requisite formalities.

2. It is pertinent to mention that subsequent to the order dated 07.07.2015 which is the order under challenge in the present writ petition, the Regional

Transport Authority, Bastar Division, Jagdalpur initiated fresh proceedings on an application moved by the respondent No.2. In the said proceedings, the present petitioner Manish Travels had also entered appearance and filed an objection before the Authority concerned. After taking into consideration the objection filed by Manish Travels, the petitioner in the present writ petition, the Regional Transport Authority finally passed an order on 24.08.2015.

3. The fact that the Regional Transport Authority passed the order on 24.08.2015, the impugned order dated 07.07.2015 passed by the State Transport Appellate Tribunal, Raipur stands complied and honoured with. It is also pertinent to note that the final order passed by the Regional Authority on 24.08.2015 has not been challenged in any appeal before the appellate Authority as there is a remedy of revision available under the law. However, the petitioners, now, in the present writ petition have challenged the earlier order dated 7.7.2015 questioning the validity and veracity of the order passed by the State Transport Appellate Authority on various grounds. Without challenging the subsequent final order passed on 24.08.2015, the challenge to the earlier order dated 07.07.2015 which has already been worked out becomes only of academic interest. Another important aspect is that the petitioners did not challenge the order dated 07.07.2015 promptly and on the contrary, participated in the proceedings drawn by the Regional Transport Authority and contested the claim of the Respondent No.2. Thus, it would not be proper for the petitioners to now turn back and challenge the earlier order dated 07.07.2015 which already stands worked out. It is also noteworthy to mention that in the entire body of the writ petition, the petitioners are silent about the subsequent proceedings drawn by the Regional Transport Authority, Bastar on an application moved by the respondent no.2 wherein the petitioners also had participated and filed their objection to the said application before the final order dated 24.08.2015 by the Regional Transport Authority was passed. There appears to be a material suppression of fact on the part of the petitioners.

4. This Court when the matter was taken up for hearing on 05.10.2015, only on perusal of the record produced by the petitioners had granted an interim protection in their favour. Even at that point of time, the petitioners did not think it proper to disclose this fact to this Court in respect of the subsequent proceedings drawn by the Regional Transport Authority, Bastar and a final order having been passed on 24.08.2015. Apparently, the petitioners do not appear to have come before this Court with clean hands and tried to suppress the material facts though the order dated 24.08.2015 had been passed much before the writ petition was filed in spite of having been full knowledge of the same.

5. The Supreme Court on many occasions where it dealt with cases of this kind has clearly laid down the principles that would govern the obligations of a litigant while approaching the court for redressal of any grievance and the consequences of abuse of the process of court. Some of the salient principles are :-

(i) The Courts have, over the centuries, frowned upon litigants who, with intent to deceive and mislead the Courts, initiated proceedings without full disclosure of facts and came to the courts with 'unclean hands'. Courts have held that such litigants are neither entitled to be heard on the merits of the case nor entitled to any relief.

(ii) The people, who approach the Court for relief on an ex parte statement, are under a contract with the court that they would state the whole case fully and fairly to the court and where the litigant has broken such faith, the discretion of the court cannot be exercised in favour of such a litigant.

(iii) The obligation to approach the Court with clean hands is an absolute obligation and has repeatedly been reiterated by this Court.

(v) A litigant who attempts to pollute the stream of justice or who touches the pure fountain of justice with tainted hands is not entitled to any relief, interim or final.

(vi) The Court must ensure that its process is not abused.

6. The Supreme Court recently in the case of **Kishore Samrite v. State of U.P. and Ors.** reported in **AIR 2012 SC (Supp) 699** while reiterating the above said principles in paragraphs 33 and 35 has held as under:

“33. The party not approaching the court with clean hands would be liable to be non-suited and such party, who has also succeeded in polluting the stream of justice by making patently false statements, cannot claim relief, especially under Article 136 of the Constitution. While approaching the court, a litigant must state correct facts and come with clean hands. Where such statement of facts is based on some information, the source of such information must also be disclosed. Totally misconceived petition amounts to abuse of the process of the court and such a litigant is not required to be dealt with lightly, as a petition containing misleading and inaccurate statement, if filed, to achieve an ulterior purpose amounts to abuse of the process of the court. A litigant is bound to make “full and true disclosure of facts.....

35. No litigant can play 'hide and seek' with the courts or adopt 'pick and choose'. True facts ought to be disclosed as the Court knows law, but not facts. One, who does not come with candid facts and clean breast cannot hold a writ of the court with soiled hands. Suppression or concealment of material facts is impermissible to a litigant or even as a technique of advocacy. In such cases, the Court is duty bound to discharge rule nisi and such applicant is required to be dealt with for contempt of court for abusing the process of the court.”

7. In the light of the foregoing facts and circumstances of the case this Court is of the opinion that the petitioners in the present case have made material suppression of facts from the Court both while filing of the Writ Petition and also during the time of hearing on the application for grant of interim relief. This Court is further of the opinion that no fruitful purpose would be served in further pursuing with the present writ petition and the same therefore deserves to be rejected.

8. Hence, for the aforesaid reasons, the present Writ Petition sans merits and is therefore dismissed. No order as to cost.

Sd/-
P. Sam Koshy
Judge