

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No.10839 of 2016
Decided on :28.11.2016**

New Ratia Cooperative Transport Societies Ltd., Ratia, Fatehabad and
another

... Petitioners

Versus

State of Haryana and others

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present : Dr. Naresh Kaushik, Advocate
for the petitioners.

Mr. Gaurav Jindal, Addl. AG, Haryana.

G.S. Sandhawalia, J. (Oral)

The petitioner seeks the quashing of the order dated 06.05.2016 (Annexure P-4), whereby the time-table of the Stage Carriage Route Permit of the petitioners buses had been changed. Vide the said order, the respondent No.2-Regional Transport Authority mentioned that the PRTC Sangrur wanted to operate on its two permits and the General Manager, Haryana Roadways had given the time-table to PRTC. In case the PRTC stopped the operation of the route, the General Manager, Haryana Roadways would continue to operate on its old time-table. Accordingly, time-table from Fatehabad to Tohana was revised.

It was, thus, accordingly, pleaded that petitioners have been operating their respective buses as per terms and conditions of the route permit (Annexures P-1 and P-2). Accordingly, the plea taken was that earlier also there was a change and directions had been issued by this Court on 12.05.2015 (Annexure P-5). Thereafter, time-table had been issued, in

compliance of the directions issued by this Court on 13.04.2015 (Annexure P-6). It was alleged that representation dated 12.05.2016 (Annexure P-7) had been made against the said change.

In the reply filed, the State has taken a specific objection that the application had been filed by petitioner No.1 on 12.04.2016 (Annexure R-2), whereby it was mutually agreed to ply rotation wise on Route No.31 i.e. Tohana to Fatehabad.

This fact has not been mentioned in the writ petition. No replication has been filed to justify or explain the concealment of abovesaid fact. Rather the factum of filing the application on 12.04.2016 (Annexure R-2) has not been averred at all. Once the petitioner No.1 had himself filed the application, he cannot turn around and submit that the change in the time-table is as such without any justification. Even otherwise objection has been taken that the alternative remedy of appeal has not been availed off before the Transport Appellate Authority.

It has been time and again held by the Apex Court, where a party approaches the writ Court without clean hands, the writ petition is liable to be dismissed without being heard on merits. Reference can be made to the judgment passed in '**M/s Prestige Lights Ltd. Vs. State Bank of India' 2007 (8) SCC 449**. The relevant part of the abovesaid judgment reads as under:-

“32. It is thus clear that though the appellant- Company had approached the High Court under Article 226 of the Constitution, it had not candidly stated all the facts to the Court. The High Court is exercising discretionary and extraordinary jurisdiction under Article 226 of the Constitution. Over and above, a Court of Law is also a Court of Equity. It is,

therefore, of utmost necessity that when a party approaches a High Court, he must place all the facts before the Court without any reservation. If there is suppression of material facts on the part of the applicant or twisted facts have been placed before the Court, the Writ Court may refuse to entertain the petition and dismiss it without entering into merits of the matter.

33. The object underlying the above principle has been succinctly stated by Scrutton, L.J., in **R v. Kensington Income Tax Commissioners**, [(1917) 1 KB 486 : 86 LJ KB 257 : 116 LT 136], in the following words:

"(I)t has been for many years the rule of the Court, and one which it is of the greatest importance to maintain, that when an applicant comes to the Court to obtain relief on an ex parte statement he should make a full and fair disclosure of all the material facts, not law. He must not misstate the law if he can help it. The Court is supposed to know the law. But it knows nothing about the facts, and the applicant must state fully and fairly the facts, and the penalty by which the Court enforces that obligation is that if it finds out that the facts have not been fully and fairly stated to it, the Court will set aside, any action which it has taken on the faith of the imperfect statement".

34. It is well settled that a prerogative remedy is not a matter of course. In exercising extraordinary power, therefore, a Writ Court will indeed bear in mind the conduct of the party who is invoking such jurisdiction. If the applicant does not disclose full facts or suppresses relevant materials or is otherwise guilty of misleading the Court, the Court may dismiss the action without adjudicating the matter. The rule has been evolved in larger public interest to deter unscrupulous litigants from abusing the process of Court by deceiving it. The very basis of the writ jurisdiction rests in disclosure of true, complete and correct facts. If the material facts are not candidly stated or are suppressed or are distorted, the very functioning of the writ courts would become impossible.

35. In the case on hand, several facts had been suppressed by the appellant-Company. Collusive action has been taken with a view to deprive the respondent- Bank from realizing legal and legitimate dues to which it was otherwise entitled. The Company had never disclosed that it had created third party's interests in the property mortgaged with the Bank. It had also shifted machinery and materials without informing the respondent-Bank prejudicially affecting the interest of the Bank. It has created tenancy or third party's right over the property mortgaged with the Bank. All these allegations are relevant when such petitioner comes before the Court and prays for discretionary and equitable relief. In our judgment, the submission of the respondent-Bank is well-founded that appellant is not entitled to ask for an extraordinary remedy under Article 226 of the Constitution from the High Court as also equitable remedy from this Court under Article 136 of the Constitution. A party, whose hands are soiled, cannot hold the writ of the Court. We, therefore, hold that the High Court was not in error in refusing relief to the appellant-Company.

36. For the foregoing reasons, we hold that by dismissing the petition in limine, the High Court has neither committed an error of law nor of jurisdiction. The appellant-Company is not entitled to any relief. Though the respondent-Bank is right in submitting that the appellant has suppressed material facts from this Court as also that it has not complied with interim order passed by the Court and it has, therefore, no right to claim hearing on merits, we have considered the merits of the matter also and we are of the considered view that no case has been made out for interference with the action taken by the respondent-Bank or the order passed by the High Court.

Accordingly, the present writ petition is dismissed.

NOVEMBER 28, 2016
Naveen

(G.S. SANDHAWALIA)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>No</i>