

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.32178 OF 2017

ORDER:

This writ petition is filed with the following prayer

“..... to issue appropriate writ, order or orders more particularly one in the nature of writ of *Mandamus* declaring the action of the respondents in issuing impugned proceedings dated 08.03.2017 as illegal, arbitrary, violative of Principles of Natural Justice and in violation of their byelaws and as such is unconstitutional and set aside the same and consequently a direction may be issued to the respondents to extend all the consequential benefits in the interest of justice and to pass such other order or orders appropriate in the case.”

Heard learned counsel for the petitioner.

Sri D.Ramesh, Learned Standing Counsel for respondents 3 and 4 submits that the petitioner has already filed WP.No.9548 of 2017 challenging the same impugned proceedings and the said writ petition is also referred to the Division Bench and the same is pending.

It is to be seen that though the petitioner mentioned in para 10 of the writ affidavit that he filed WP.No.9548 of 2017 and the same is pending, no details were given regarding the said writ petition. In fact, this writ petition is filed challenging the very same impugned proceedings which were challenged in WP.No.9548 of 2017, with exactly identical prayer. This is nothing but suppression of facts. This Court has spent valuable

time twice i.e. at the time of admission and at the time of hearing. The respondents were also necessitated to file counter. Hence, the writ petition is liable to be dismissed on the sole ground of suppression of facts.

In ***K.D.Sharma v. Steel Authority of India Limited and Others***¹ the Apex Court held as follows;

“ 24. The jurisdiction of the Supreme Court under [Article 32](#) and of the High Court under [Article 226](#) of the Constitution is extraordinary, equitable and discretionary. Prerogative writs mentioned therein are issued for doing substantial justice. It is, therefore, of utmost necessity that the petitioner approaching the Writ Court must come with clean hands, put forward all the facts before the Court without concealing or suppressing anything and seek an appropriate relief. If there is no candid disclosure of relevant and material facts or the petitioner is guilty of misleading the Court, his petition may be dismissed at the threshold without considering the merits of the claim.

26. A prerogative remedy is not a matter of course. While exercising extraordinary power a Writ Court would certainly bear in mind the conduct of the party who invokes the jurisdiction of the Court. If the applicant makes a false statement or suppresses material fact or attempts to mislead the Court, the Court may dismiss the action on that ground alone and may refuse to enter into the merits of the case by stating "We will not listen to your application because of what you have done". The rule has been evolved in larger public interest to deter unscrupulous litigants from abusing the process of Court by deceiving it.

¹ 2008 (12) SCC 481

28. The above principles have been accepted in our legal system also. As per settled law, the party who invokes the extraordinary jurisdiction of this Court under [Article 32](#) or of a High Court under [Article 226](#) of the Constitution is supposed to be truthful, frank and open. He must disclose all material facts without any reservation even if they are against him. He cannot be allowed to play 'hide and seek' or to 'pick and choose' the facts he likes to disclose and to suppress (keep back) or not to disclose (conceal) other facts. The very basis of the writ jurisdiction rests in disclosure of true and complete (correct) facts. If material facts are suppressed or distorted, the very functioning of Writ Courts and exercise would become impossible. The petitioner must disclose all the facts having a bearing on the relief sought without any qualification. This is because, "the Court knows law but not facts".

45. Yet in another case in [Vijay Syal & Anr. v. State of Punjab & Ors.](#), (2003) 9 SCC 401; this Court stated;

"In order to sustain and maintain sanctity and solemnity of the proceedings in law courts it is necessary that parties should not make false or knowingly, inaccurate statements or misrepresentation and/or should not conceal material facts with a design to gain some advantage or benefit at the hands of the court, when a court is considered as a place where truth and justice are the solemn pursuits. If any party attempts to pollute such a place by adopting recourse to make misrepresentation and is concealing material facts it does so at its risk and cost. Such party must be ready to take consequences that follow on account of its own making. At times lenient or liberal or generous treatment by courts in dealing with such matters are either mistaken or lightly taken instead of learning proper lesson. Hence there is a compelling need to take serious view in such matters to ensure expected purity and grace in the administration of justice".

46. In the case on hand, the appellant has not come forward with all the facts. He has chosen to state facts in

the manner suited to him by giving an impression to the Writ Court that an instrumentality of State (SAIL) has not followed doctrine of natural justice and fundamental principles of fair procedure. This is not proper. Hence, on that ground alone, the appellant cannot claim equitable relief. But we have also considered the merits of the case and even on merits, we are convinced that no case has been made out by him to interfere with the action of SAIL, or the order passed by the High Court."

Learned counsel for the petitioner also gave an impression that impugned order is challenged in this writ petition for the first time. In fact, this Court referred the earlier writ petition to Division Bench and the said writ petition pending. It is only when respondents filed counter affidavit, it came to light that the petitioner challenged the impugned proceedings in the writ petition noted above and the conduct of the petitioner goes to show that he did not disclose all material facts.

Having regard to the aforesaid facts and circumstances, the writ petition is dismissed with exemplary costs of Rs.5,000/- payable by the petitioner to the credit of High Court Legal Services Committee, Hyderabad.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

A.RAJASHEKER REDDY, J

10.10.2017
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