

**THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE N. BALAYOGI**

WRIT PETITION No.430 of 2017

Date: 21.03.2017

Between:

G.Motilal

...Petitioner.

And

The State of Telangana
rep by its Special Chief Secretary,
Higher Education Department,
Telangana, Secretariat,
Hyderabad and others.

...Respondents.



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WRIT PETITION No.430 of 2017

ORDER: (per Hon'ble Sri Justice Sanjay Kumar)

The writ petitioner is the third respondent in O.A.No.1914 of 2016 on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad.

Interim order dated 01-06-2016 was granted by the Tribunal in the said O.A directing the authorities not to fill up the existing vacancy of Head of Section in Electrical and Electronics Engineering in Government Polytechnic, Masab Tank, Hyderabad. Aggrieved thereby, the third respondent in the O.A filed this writ petition.

By order dated 04-01-2017, this Court granted interim suspension of the impugned order passed by the Tribunal.

Heard Sri Ravi Kondaveeti, learned counsel for the writ petitioner, Sri V. Jagapathi, learned counsel for the third respondent, the applicant in O.A.No.1914 of 2016, and the learned Government Pleader for Services-1 (Telangana) for the respondents-authorities.

In the light a crucial fact which was brought to our notice, we are of the opinion that this writ petition does not warrant adjudication on merits.

The issue raised before the Tribunal by the third respondent herein was with regard to the failure of the authorities in promoting him as a Head of Section. It appears that under Circular Memo dated 20-05-2016, the Director of Technical Education, Government of Telangana, effected promotions to the

posts of Head of Section, wherein the name of the third respondent herein was excluded. The name of the writ petitioner however figured at Serial No.2 under 'XI - Electrical & Electronics Engineering'.

Pursuant to the aforestated Memo, G.O.Ms.No.17, Higher Education (TE) Department, dated 17-06-2016, was issued by the Government of Telangana, whereby the writ petitioner was posted as the Head of Section at Government Polytechnic, Nirmal, Adilabad District. It is an admitted fact that pursuant to the same, the petitioner joined as the Head of Section at Government Polytechnic, Nirmal, Adilabad District, on 30-06-2016.

The present writ petition was filed on 30-01-2017. However, the petitioner chose to describe himself in the cause title as a Senior Lecturer working at SRRS Government Polytechnic, Sircilla, Karimnagar District, the post from which he was promoted as a Head of Section and posted at Nirmal. In the body of the affidavit also, the writ petitioner chose to describe himself as a Senior Lecturer working at SRRS Government Polytechnic, Sircilla, Karimnagar District. In Para No.2 of the affidavit, he merely referred to the fact that he was promoted as Senior Lecturer in January 2013 and posted at SRRS Government Polytechnic, Sircilla, and went on to state that he was discharging duties to the utmost satisfaction of his superior officers. Significantly, he did not mention that he was working as the Head of Section at Government Polytechnic, Nirmal, as on that date. Though a reference was made to his posting at Nirmal, Adilabad, in Para No.7 of the affidavit, the petitioner did not disclose the factum of his promotion as a Head of Section and that he had actually joined

duty as such at Nirmal. Even in the verification portion of the affidavit, the writ petitioner described himself as a Senior Lecturer working at SRRS Government Polytechnic, Sircilla, Karimnagar District.

As rightly pointed out by Sri V. Jagapathi, learned counsel, this suppression seems to have been deliberate and wilful as the issue before this Court in the writ petition was the interim order granted by the Tribunal restricting the filling up of the existing vacancy of Head of Section at Hyderabad and if the petitioner had disclosed the fact that he was already working as a Head of Section at Nirmal in Adilabad District, it may have had some impact on his locus.

Reference in this regard may be made to the observations of the Supreme Court in **K.D. SHARMA vs. STEEL AUTHORITY OF INDIA LIMITED AND OTHERS**¹:

“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 suppress any 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 the larger public interest to deter unscrupulous litigants from abusing the process of court by deceiving it.”

This Court would adjudicate a dispute brought before it on merits if the petitioner does so with clean hands. In the present case, deliberate suppression of a material fact by the petitioner in the writ affidavit is demonstrable.

¹ (2008) 12 Supreme Court Cases 481

This writ petition therefore cannot be entertained being an abuse of process and is accordingly dismissed. Interim order dated 04-01-2017 in WPMP No.471 of 2017 shall stand vacated.

Pending miscellaneous petitions, if any, shall also stand dismissed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

N. BALAYOGI, J

Date: 21.03.2017
mrh

