

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No. 33813 OF 2017

ORDER:

This writ petition is filed challenging G.O.Rt.No.151 Energy, Infrastructure & Investment (OP.A3) Department, dated 04.10.2017 on the ground that though the petitioner is eligible for appointment to the post of Chief Electrical Inspector, the respondent authorities have placed the 2nd respondent as Full Additional Charge of the post of Director of Safety and Chief Electrical Inspector to Government.

Heard Sri M.Surender Rao, learned Senior Counsel for Sri C.Srinivasa Baba, learned counsel for petitioner and learned Government Pleader for Services.

Sri M.Surender Rao, learned Senior Counsel submits that though the petitioner is eligible, the 1st respondent has appointed the 2nd respondent as Director of Safety and Chief Electrical Officer to the Government contrary to FR 49. He submits that only a civil servant can only be kept in Full Additional Charge by the State Government as per FR 49. He submits that the 2nd respondent is not a civil servant.

Learned Government Pleader for Services produced written instructions stating that ACB case is registered against the petitioner, as such, petitioner is not qualified. Therefore, he submits that the 1st respondent appointed the 2nd respondent as Chief Electrical Inspector.

It is to be seen that the petitioner has suppressed the fact of registration of ACB case against him. Learned Senior Counsel tried to cover up the same by stating that in the representation filed by the petitioner with the respondent authorities, the fact of registration of ACB case is mentioned. But it is to be bear in mind that a prerogative remedy is not a matter of course. While exercising extraordinary power under Article 226 of the Constitution of India, 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. The said principle enunciated in the judgment of the Hon'ble Supreme Court reported in **K.D.Sharma v. Steel Authority of India Ltd.**,¹ wherein it is 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.”

In view of above facts and circumstances, this writ petition is liable to be dismissed and accordingly, dismissed only on the ground of suppression of material facts.

¹ Civil Appeal No.4270 of 2008

There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand dismissed.

A.RAJASHEKER REDDY,J

12-10-2017
kvs



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