

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.4830 of 2020

ORDER:

This writ petition is filed with the following prayer :

“.....writ in the nature of MANDAMUS, to the respondents, specifically to respondents 1 to 3 to be assisted by respondents 4 and 5, to immediately increase the number, frequency, safety and availability of city buses, mainly of ordinary buses, as also explore the possibility of free public transit buses at least on select routes plus increase in the facilities and public inconveniences in regard to the road conditions and buses in the Greater Hyderabad Metropolitan Area, with a consequent direction to Respondents 1 and 3 to constitute an effective committee for interaction with the public to monitor such improvement measures and ensure democratic governance of the TSRTC with optimum people's participation; award costs to the writ petitioners; and pass such other.....”

Heard Sri I.Mallikarjuna Sharma, learned counsel for petitioners.

It has been contended by the petitioners that they are the residents of M.S.Maktha and Chikkadpally, Hyderabad. Their grievance is that the respondents are not running the buses promptly with proper frequency and safety and thereby causing lot of inconvenience to the general public in commuting to their destinations. Counsel for petitioners contends that earlier a similar writ petition in W.P.No.25972 of 2008 was filed before this Court and a Division Bench of

this Court was pleased to close the said writ petition vide order dated 02.06.2014 with the following observations:

“2.Going by the averments and statements in the writ petition, it is not clear whether the subject matter of this writ petition relates to the territory of the State of Andhra Pradesh or the State of Telangana or both. But going by the cause title, it appears that this writ should relate to the State of Telangana. The first respondent, the APSRTC, is carry out the direction which may be passed by this Court. In view of A.P.Reorganisation Act, 2014, it is not clear as to what is the status of the first respondent with regard to its territorial area. Moreover, the grievance in this writ petition relates to the year 2008. There must have been a change in the circumstances by now. Hence, we cannot proceed with this matter

3.For the foregoing reasons, we close the matter without passing any order except granting permission to the petitioner to file a fresh case if the cause still survives duly impleading the appropriate respondents who could carry out the directions of this Court, if passed.”

Thus, he contends that the Division Bench has closed the writ petition with an observation that if the cause in the writ petition still survives, it is always open for the petitioners to file a fresh writ petition by impleading proper parties. The petitioners further contend that though the writ petition was closed way back in the year 2014, there is no improvement in the situation and the respondents are not running the buses with proper frequency and safety, thereby affecting the rights of the general public. He further contends that the respondents have increased the fares of the tickets without

calling for objections from the general public. Counsel for petitioners has contended that the petitioners did not raise the demand for exercise of their subsisting legal rights and they filed writ petition way-back in 2008, which was closed and hence, they need not raise the demand.

Therefore, counsel for petitioners contends that appropriate orders be passed in the writ petition directing the respondents to run the buses regularly with proper frequency and safety, increase the number of buses and also fix the fares by duly consulting the general public.

This Court, having considered the aforesaid submission, is of the considered view that the writ petition for issuance of Mandamus is not maintainable, as the petitioners have not raised any demand for exercise of their subsisting legal rights before the respondents. The pre-requisite condition for issuance of a Mandamus is that there should be a demand and in the absence of the same, no Mandamus can be issued. A perusal of the pleadings and also the prayer would disclose that the writ petition is in the form of public interest litigation (PIL) and Article 226 is discretionary jurisdiction and writ under Article 226 is not the answer for all the irregularities happening in the society. It is always open for the petitioners to submit a representation seeking the relief sought in this writ petition and the respondents may consider the same and pass appropriate orders, but the Mandamus as sought by the petitioners under Article 226 for such a relief in the absence of specific demand to the respondents for enforcing the

petitioners' subsisting legal rights, cannot be issued. Moreover, how many buses have to be operated is a policy decision of the respondents and the Courts cannot interfere with such policy matters. On this ground also, this Court is not inclined to interfere in the matter.

Writ Petition is accordingly dismissed. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

4th March 2020
dv

ABHINAND KUMAR SHAVILI, J

