
(1999) 04 AP CK 0065

In the Andhra Pradesh High Court

Case No : Writ Petition No. 36819 of 1998

D. Janardhana Reddy

APPELLANT

Vs

Regional Transport Authority, Nellore and others

RESPONDENT

Date of Decision : 12-04-1999

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1999) 6 ALD 461 : (1999) 5 ALT 773

Hon'ble Judges : B. Sudershan Reddy, J

Bench : Single Bench

Advocate : Mr. B.S. Siva Prasad, for the Appellant; Mr. A.V. Sivaiah, SC for APSRTC and Mr. Naushad Ali, for the Respondent

Judgement

1. Mr. Siva Prasad, learned Counsel for the petitioner made a representation on 2-4-1999 requesting this Court to grant permission to withdraw the writ petition on the basis of the instructions purported to have been received by him from the petitioner. I have recorded the said statement and observed that the request of the petitioner for withdrawing the writ petition shall be considered at the appropriate stage.

2. The present writ petition is purported to have been filed in public interest for issuance of a writ of mandamus declaring the grant/issue of stage carriage permits on the Nellore Town Service Route, Kalakarula colony to Zakir Hussain Nagar, via, Shivaji Nagar as contrary to law and the notified schemes of nationalisation in G.O. Ms. No.92 of 1991 dated 23-2-1991; G.O. Ms. No.906 dated 24-9-1976, and G.O. Ms. No.175 dated 28-6-1990. The petitioner also obtained an interim order directing respondents 1 and 2 not to issue any stage carriage permits on the said route.

3. In the affidavit filed by the proposed respondent, it is inter alia stated that he filed an appeal AP No.360 of 1998 before the State Transport Appellate Tribunal, Hyderabad challenging the order of the Regional Transport Authority refusing to grant permit on the route with which we are now concerned. The Tribunal after

hearing the concerned parties including the Road Transport Corporation found that the overlapping is only 4.9 kms and accordingly granted the permit in favour of the proposed respondent by an order dated 19-11-1998. The said order passed by the appellate Tribunal is not challenged in this writ petition and it has become final. It is also required to notice that this writ petition has been tiled by the petitioner on 30-12-1998 in purported public interest litigation.

4. In the counter affidavit filed by the proposed respondent it is further stated that the writ petition has been filed to protect the writ petitioner's interest and the interest of the existing operator's interest and the interest of the existing operators on the very same route by name Mr. P. Srinivasulu and Mr. P. Durga Prasad who hold stage carriage permits on the same route by virtue of the grant made by the State Transport Appellate Tribunal, Hyderabad in AP Nos.991 of 1996 and 992 of 1996. The said P. Srinivasulu and P. Durga Prasad are stated to be the sons of one P. Yagnanarayana. It is alleged in categorical terms that the writ petitioner is the friend and partner of the said P. Yagnanarayana and has financial interest in the aforesaid permits. That apart, it is alleged that the petitioner himself has obtained the grant of a Maxi cab permit from the State Transport Appellate Tribunal vide the order dated 28-7-1998 in AP No.268 of 1998. The proposed respondent in categorical terms pleaded the financial and personal interest of the writ petitioner in the subject-matter of the writ petition.

5. After going through the averments made in the counter affidavit, Mr. Siva Prasad, learned Counsel for the petitioner requested this Court to grant some time to enable him to file a suitable reply affidavit and also to get instructions from the writ petitioner. The time was accordingly granted and it was adjourned from time to time that is to say from 22nd March, 1999 onwards. The learned Counsel for the petitioner today submits that he is not in a position to get any instructions whatsoever from the petitioner. It is submitted by the learned Counsel for the petitioner that inspite of issuing repeated telegrams, he is not in a position to receive any instructions from the writ petitioner. The learned Counsel for the petitioner made available a copy of the telegram dated 9-4-1999 which in turn refers to the telegram purported to have been issued by the learned Counsel for the petitioner dated 31-3-1999 and a telephonic talk on 5-4-1999. The learned Counsel for the petitioner made available a certified copy of the telegram issued by him to the writ petitioner,

6. It is thus clear that the petitioner after receiving the telegram and inspite of the telephonic instructions by the learned Counsel for the petitioner is not willing to respond in the matter. The averments and the allegations made in the affidavit filed by the proposed respondent and the contentions raised therein remain unchallenged.

7. The question that would arise for consideration is as to whether this writ petition can be treated as a petition in the public interest at all. However, the learned Counsel for the petitioner reiterates his earlier statement seeking permission to withdraw the writ petition as he has received specific instructions

to that extent even before filing of the counter affidavit by the proposed respondent. The averments made in the counter-affidavit would undoubtedly reveal the personal and financial interest of the writ petitioner in the subject matter of the writ petition. I have to hold that the petitioner has abused the judicial process in the name of public interest litigation. He made an attempt to derive personal benefit masquerading as a public interest litigant. Perhaps need has arisen for this Court to protect itself from such unscrupulous litigants in the name of public interest litigation. It is the duty of this Court to keep the streams of justice unpolluted. The instrument of public interest litigation invented by the Apex Court and visionaries cannot be allowed to be abused and subverted by the unscrupulous litigants. Viewed from any angle and in view of the request made by the learned Counsel for the petitioner, the writ petition is required to be dismissed. There is no difficulty about the same but the question that would arise for consideration is as to the award of costs. With a view to discourage the unscrupulous litigants as the one in the present writ petition and to maintain and uphold the integrity of judicial process and public interest litigation, I consider it appropriate to award costs of Rs. 10,000/- (Rupees Ten thousand only) payable by the petitioner within eight weeks from today. The amount of costs shall be deposited to the credit of the A.P. State Legal Services Authority. The Secretary, A.P. State Legal Services Authority is directed to bring it to the notice of the Court if the costs are not deposited by the petitioner within the stipulated time.