

(1999) 06 AP CK 0091

In the Andhra Pradesh High Court

Case No : Writ Petition No. 7669 of 1988 and Batch

D. Rajeswara Rao and another

APPELLANT

Vs

State Transport Appellate Tribunal, A.P., Hyd. and others

RESPONDENT

Date of Decision : 17-06-1999

Acts Referred:

Citation : (1999) 5 ALD 48 : (1999) 2 AnWR 171

Hon'ble Judges : A.S. Bhate, J

Bench : Single Bench

Advocate : Mr. R. Venugopal Reddy and Mr. V. Narasimha Reddy, for the Appellant; Government Pleader for Transport, Mr. K. Harinath, SC for APSRTC and Mr. J. Rajendra Prasad, for the Respondent

Judgement

1. As the issue involved in all the writ petitions is one and the same, they are heard together and are being disposed of by this common order.

2. The writ petitions deserve to be dismissed on the short ground that the petitioners do not deserve any relief to be granted while exercising writ jurisdiction. It is not disputed that in a writ petition the party is not entitled to relief as of right. A person who comes with un-clean hands or a person who has taken advantage for his own self by urging a particular position cannot be granted equitable relief, if he urges from and challenges the position which he had already taken and enjoyed benefits.

3. In the instant cases the petitioners were running town service routes. The said routes were subsequently extended beyond the town service and they themselves admittedly went before the tax authority and sought that their routes be treated as Mofussil routes and tax be recovered from them on that basis. They continued to ply on the routes as Mofussil routes. When the matter came up before the State Transport Appellate Tribunal, Hyderabad, a stand was sought to be taken by the petitioners that the route, which they were plying, continued to be town service routes and inspite of the scheme which was brought into force, they were not dis-entitled to ply the routes to be extended of their original

route in the town. The Appellate Tribunal rejected their contention holding that they cannot approbate and reprobate. Learned Counsel, for the petitioners, now contends that in view of Section 282(2)(ii) of the A.P. Motor Vehicle Rules, no route of town service shall extend more than 8 kilometres beyond the limits of the Municipality or town and it cannot be continued to be town service route unless specific permission of the Transport Commissioner was obtained. He therefore, contended that on that basis, the Tribunal should have permitted him to ply on the route which was within town and could not refuse permission to them to ply absolutely. As pointed out already, the petitioners have taken advantage by their own act for all these years by plying on the routes as Mofussil routes. Under the circumstances, it is not open for them to claim relief in writ jurisdiction by saying that though they had paid the tax on that basis, there is no estoppels against law and they should have been permitted to ply on the route treating it as a town service within the limits of town as before. Learned Counsel for the petitioners has relied upon two judgments in Smt. Sk. Mumtaz Begum v. Regional Transport Officer, Nellore, 1989 (2) LS 250, and in Writ Petition No. 18522 of 1988 dated 7-2-1989 passed by this Court. I do not think they are relevant to the facts of the present cases. Accordingly, the Writ Petitions are dismissed on the ground that the petitioners do not deserve to be granted any relief whatsoever having taken advantage of their own act for all these years by plying the buses as Mofussil route. No costs.