
(2022) 08 MP CK 0058

In the Madhya Pradesh High Court

Case No : Writ Petition No. 12538 Of 2022

Paramjeet Singh Chabda

APPELLANT

Vs

State Of M.P And Others

RESPONDENT

Date of Decision : 30-08-2022

Acts Referred:

Constitution Of India, 1950 — Article 226, 227

Uttar Pradesh Industrial Disputes Act, 1947 — Section 6H(2), 25FFF, 33C(2)

Citation : (2022) 08 MP CK 0058

Hon'ble Judges : Gurpal Singh Ahluwalia, J

Bench : Single Bench

Advocate : N.K.Gupta, M.S.Jadon, Sushant Tiwari, Himanshu Sharma

Final Decision : Disposed Of

Judgement

Gurpal Singh Ahluwalia, J

This petition under Article 226 of the Constitution of India has been filed seeking following reliefs :

"Hence, it is humbly prayed that writ or statutory or any other writ or order may kindly be issued setting aside the order impugned dated 26.04.2022 Annexure-P/1 passed by State Transport Appellate Tribunal in revision No. 346/2019 so far as cancellation of stoppage at Betma in between the route Dhar to Indore on permanent permit No. 131/Dhar/2014 for 2nd trip be set aside.

Any other writ, order or direction as this Hon'ble court may deem fit in the facts and circumstances of the case be granted doing justice in favor of petitioner may kindly be granted."

It is submitted by counsel for respondent No.3 that by this petition, the petitioner has impugned the order dated 26.04.2022 passed by STAT, Gwalior in Revision No.346/2019 by which the STAT has modified the permit granted by RTA for plying the bus on Dhar to Indore route.

A preliminary objection has been raised that although the order has been passed by an authority situated within the territorial jurisdiction of this Court but the route, i.e. Dhar to Indore, completely falls within the territorial jurisdiction of Indore Bench of the High Court of Madhya Pradesh and in the light of the judgment passed by the Supreme Court in the case of Kusum Ingots & Alloys Ltd. Vs. Union of India reported in (2004) 6 SCC 254, this Bench may decline to entertain the writ petition by following the doctrine of "forum conveniens."

Per contra, it is submitted by counsel for petitioner that the notices were issued on 06.06.2022 and once a writ petition has been entertained, this Court cannot refuse to entertain its jurisdiction on the basis of doctrine of forum convenience.

Heard learned counsel for the parties.

Merely because this Court had issued notice on 06.06.2022 would not mean that this Court cannot refuse to exercise its jurisdiction by applying the doctrine of "forum conveniens."

The Supreme Court in the case of State of Uttar Pradesh and Another Vs. Uttar Pradesh Rajya Khanij Vikas Nigam Sangharsh Samiti And others, reported in (2008) 12 SCC 675 has held as under :

"37. We have given most anxious and thoughtful consideration to the rival contentions of the parties. So far as preliminary objection raised by the Corporation before the High Court is concerned, in our considered view, the same was well founded and ought to have been upheld. It was urged before the High Court on behalf of the Corporation and the State Government that the writ petition was premature inasmuch as no retrenchment had been affected. Several disputed questions of fact were involved in the petition. If the contention of the Samiti was that there was illegal closure of undertaking or there was non-payment of wages by the employer, appropriate proceedings could have been initiated under industrial law. In fact, one of the Judges of the Division Bench upheld the contention and observed that the employees could have claimed closure compensation under Section 25-FFF of the Act or could have approached prescribed authority under the Payment of Wages Act relying upon Section 33-C(2) of the Act or Section 6-H(2) of the U.P. Industrial Disputes Act. The other Single Judge of the Division Bench, however, held that the writ petition had been entertained and interim orders were also passed. Relying upon Suresh Chandra Tewari, the learned Judge held that "the petition cannot be dismissed on the ground of alternative remedy if the same has been entertained and interim order has been passed".

(emphasis supplied)

38. With respect to the learned Judge, it is neither the legal position nor such a proposition has been laid down in Suresh Chandra Tewari that once a petition is admitted, it cannot be dismissed on the ground of alternative remedy. It is no doubt correct that in the headnote of All India Reporter (p. 331), it is stated that

"petition cannot be rejected on the ground of availability of alternative remedy of filing appeal". But it has not been so held in the actual decision of the Court. The relevant para 2 of the decision reads thus: (Suresh Chandra Tewari case, AIR p. 331)

"2. At the time of hearing of this petition a threshold question, as to its maintainability was raised on the ground that the impugned order was an appealable one and, therefore, before approaching this Court the petitioner should have approached the appellate authority. Though there is much substance in the above contention, we do not feel inclined to reject this petition on the ground of alternative remedy having regard to the fact that the petition has been entertained and an interim order passed."

(emphasis supplied)

Even otherwise, the learned Judge was not right in law.

True it is that issuance of rule nisi or passing of interim orders is a relevant consideration for not dismissing a petition if it appears to the High Court that the matter could be decided by a writ court. It has been so held even by this Court in several cases that even if alternative remedy is available, it cannot be held that a writ petition is not maintainable. In our judgment, however, it cannot be laid down as a proposition of law that once a petition is admitted, it could never be dismissed on the ground of alternative remedy. If such bald contention is upheld, even this Court cannot order dismissal of a writ petition which ought not to have been entertained by the High Court under Article 226 of the Constitution in view of availability of alternative and equally efficacious remedy to the aggrieved party, once the High Court has entertained a writ petition albeit wrongly and granted the relief to the petitioner."

So far as the merits regarding doctrine of forum conveniens is concerned, this Court in the case of Purendra @ Punendra Singh by order dated 19.07.2022 passed in W.P. No. 16454/2022 has held as under :

"This Court in the case of Moh. Abid Siddique vs. State of M.P. & Others by order dated 28.09.2021 passed in W.P.No.19264/2021 has held as under:-

"According to the petitioner, the counter signature is to be signed by STA UP. It is true that since the petitioner is seeking stage carriage permit for Gwalior to Delhi route, and therefore, a part of cause of action may have arisen within the territorial jurisdiction of this Court but since for renewal of regular stage carriage permit is to be countersigned by the STA UP. The Supreme Court in case of Kusum Ingots & Alloys Ltd. v. Union of India, reported in (2004) 6 SCC 254, has been held that merely because a small part of cause of action has arisen within the territorial jurisdiction of High Court, the same by itself may not be considered to be a determinative factor compelling the High Court to decide the matter on merits. In appropriate cases, the Court may refuse to exercise its discretionary jurisdiction by invoking the doctrine of forum conveniens. Since the STA UP falls

within the territorial jurisdiction of Allahabad High Court, therefore, this petition is dismissed with liberty to the petitioner that, if so advised, he can approach the Allahabad High Court for redressal of his grievance."

The petitioner had applied for grant of permit on Shahdol to Allahabad route. His application has been rejected whereas the application filed by respondents No.3 to 6 has been accepted. Shahdol undisputedly falls within the territorial jurisdiction of Principal Seat of this Court.

Accordingly, applying the principle of forum conveniens it is held that merely because small part of cause of action has arisen within the territorial jurisdiction of this Court, the Court would not like to exercise its power.

Accordingly, this petition is dismissed with liberty to the petitioner to approach the Principal Seat of this Court for redressal of his grievances."

The RTA had granted permit for plying bus on Dhar to Indore route which has been modified by impugned order dated 26.04.2022 passed by STAT in Revision No.346/2019. Since the route completely falls within the territorial jurisdiction of Indore Bench of this High Court, therefore, by applying the doctrine of "forum conveniens.", this Court declines to exercise its jurisdiction under Article 226/227 of the Constitution of India with liberty to the petitioner that if so advised, he can approach the Indore Bench of this Court for redressal of his grievance.

With aforesaid observation, the petition is disposed of.