

(1999) 12 AP CK 0095
In the Andhra Pradesh High Court

V. Venkata Rao and Another

APPELLANT

Vs

Dy. Transport Commissioner and Secretary, Regional
Transport Authority and Others

RESPONDENT

Date of Decision : 14-12-1999

Acts Referred:

Constitution of India, 1950 — Article 226
Motor Vehicles Act, 1988 — Section 87

Citation : (2000) 2 ACC 156

Hon'ble Judges : B. Sudershan Reddy, J

Bench : Single Bench

Judgement

B. Sudershan Reddy, J.—The petitioners in the instant writ petition challenge Memo No. 20081/A1/99 dated 16.10.1999 issued by the first respondent herein directing the petitioners to stop plying of the operation of the vehicles on the inter-state route, (1) Yanam to Rajahmundry and (2) Yanam to Jagannaikapuram.

2. Before advertng to the question as to the validity of the impugned memo the facts, in some what detail, may have to be noticed : The petitioners are the transport operators. They have applied for grant of inter-State permits on the routes, (1) Yanam to Rajahmundry and (2) Yanam to Jagannaikapuram. The State Transport Authority, Pondicherry, vide proceedings No. TD/PP/1/40/94, dated 31.10.1994 granted stage carriage permits for a period of five years. However, the Secretary, State Transport Authority, Andhra Pradesh, refused to countersign the permits so granted by the State Transport Authority, Pndicherry and informed the State Transport Authority, Pondicherry that the routes in question are covered by the approved schemes of the Andhra Pradesh State Road Transport Corporation (APSRTC) and the conditions of the permit do not permit granting fresh permits in favour of the private operators. The petitioners, however, continued to ply their vehicles without countersignature, as is required in law. The vehicles were seized and detained by the first respondent herein. The petitioners filed writ petitions--W.P. Nos. 4778 and 4779 of 1995 in this Court challenging the action of the first respondent in detaining the vehicles on the

ground that their applications dated 26.2.1995 requesting for countersignature were pending on the file of the first respondent therein and the vehicles could not have been seized during the pendency of the said applications. This Court by order dated 14.3.1995 disposed of the said writ petitions directing the first respondent therein to dispose of the applications of the petitioners dated 26.2.1995 within a period of two weeks from the date of receipt of a copy of the order and the vehicles were directed to be released to enable the petitioners to ply the vehicles till the decision is taken in the matter by the first respondent disposing of the applications of the petitioners dated 26.2.1995.

3. The APSRTC filed W.A. Nos. 323 and 324 of 1995, challenging the order passed in W.P. Nos. 4778 and 4779 of 1995, dated 14.3.1995. The said writ appeals were admitted by a Division Bench of this Court and interim order was passed to the effect that "the petitioners shall not operate on the route in question". In the meanwhile, APSRTC filed W.P. Nos. 2661 and 2662 of 1995 in the High Court of Madras, challenging the proceedings dated 31.10.1994 granting stage carriage permits to the petitioners for the routes in question and the High Court of Madras, having admitted the writ petitions, passed interim order on 23.2.1995 interdicting the proceedings dated 31.10.1994.

4. Under those circumstances, the writ appeals W.A. Nos. 323 and 324/95 were disposed of by a Division Bench of this Court on 26.6.1996 with an observation that the parties will be governed by the judgment to be rendered by the High Court of Madras in W.P. Nos. 2661 and 2662/95 and directed the parties to get the issue resolved pending before the Madras High Court; but, in view of the interim orders passed by the Madras High Court the writ appellate Court made absolute the interim order earlier granted by it on 5.4.1995. In the light of the directions passed in the writ appeals by this Court, the petitioners stopped plying of the vehicles on the routes in question.

5. The writ petitions--W.P. Nos. 2661 and 2662 of 1995, preferred by the APSRTC are still pending before the Madras High Court, awaiting disposal.

6. The petitioners having failed in their attempts to ply their buses on the routes due to the intervention of APSRTC, changed their strategy and adopted altogether a different method to overcome the orders passed by this Court, as well as the Madras High Court, by submitting an application dated 31.3.1998 before the first respondent for granting temporary permits, pending counter signature on pucca permits, on the very same route. The petitioners filed W.P. No. 8801 of 1998 and obtained directions from this Court on 1.4.1998 for consideration and disposal of their application for granting temporary permits. The first respondent having considered the matter, rejected the request of the petitioners herein for grant of temporary permits on the inter-State route of Yanam to Rajahmundry and Yanam to Jagannaikapuram, on the ground that the inter-state routes--Yanam to Rajahmundry and Yanam to Jagannaikapuram, on which the petitioners have applied for grant of temporary permits, pending counter-signature on pucca permits, are not covered by any inter-State

agreement entered into between the Governments of Andhra Pradesh and Pondicherry and the said routes are covered by an approved scheme of APSRTC in the portion lying in Andhra Pradesh State. The petitioners appeared to have reiterated their claim by way of representation dated 27.10.1998 requesting the first respondent to reconsider its decision and grant temporary permits on the above routes. The first respondent once again reiterated its earlier view and accordingly rejected the request of the petitioners by order dated 4.12.1998 on the ground that the pucca permits granted by the Secretary, State Transport Authority, Pondicherry, have not been covered by any inter-State agreement and the routes in question are covered by the approved schemes of APSRTC.

7. Thereafter, the petitioners filed W.P. No. 33332 of 1998 on 15.12.1998 seeking a Writ of Mandamus "declaring the inaction of the respondent viz., the Secretary, State Transport Authority, Andhra Pradesh, Hyderabad, in not granting temporary permits on the inter-State routes, (a) Yanam to Rajahmundry via Kakinada and Peddapuram, (b) Yanam to Jagannaikapur (Venkateswara Temple) via. M.S.N. Charities and J. Ramaraopeta (Non stop service) as provided u/s 87(2)(1), M.V. Act, 1988, as arbitrary illegal and without jurisdiction and issue any other appropriate writ, order or direction and grant such other necessary reliefs".

8. W.P. No. 33332 of 1998 filed on 30.11.1998, came up for admission before a learned Single Judge of this Court on 15.12.1998, the same was allowed at the admission stage, itself, and the order dated 19.6.1998 passed by the first respondent herein refusing to grant temporary permits, was accordingly quashed and the matter was remitted directing the first respondent to consider the applications of the petitioners dated 27.3.1998 (31.3.1998) within a period of four weeks, without reference to the pendency of the writ petitions in the Madras High Court. This Court further directed the first respondent to consider the applications of the petitioners in the light of the principles laid down by this Court in W.P. No. 12040 of 1998 dated 7.12.1998. For the present we are not concerned with the principles laid down by this Court in W.P. No. 12040 of 1998, as I am told that the appeal preferred by the State against the said order is pending.

9. It is rather surprising to notice that the order dated 4.12.1998 passed by the first respondent was neither placed before this Court, nor any mention was made about the same. That order still remains and is subsisting, even as on today.

10. More about the conduct of the petitioners and the concerted effort made by them to suppress the material facts and the device adopted by them to mislead this Court, later.

11. The first respondent herein by order dated 13.4.1999 after referring to various proceedings, including the orders passed by this Court and after elaborate consideration of the matter, passed the orders in compliance with the directions of this Court passed in W.P. No. 33332 of 1998 dated 15.12.1998 rejecting the request of the petitioners for grant of temporary permits. The

petitioners, thereafter filed C.C. No. 704 of 1999 on 19.4.1999, practically challenging the order dated 13.4.1999, in the contempt case. This Court, in C.C. No. 704 of 1999 on 28.4.1999, passed the following order:

Notice before admission.

Pending admission, there shall be a direction to the respondent to grant 5 temporary permits to the petitioners on the existing inter-State routes, (1) Yanam to Rajahmundry and (2) Yanam to Jagannaikapur, Venkateswara Swamy Temple via. M.S.N. Charities and J. Ramaraopet, u/s 87(2)(1) of the M.V. Act, 1988.

Post on 8.6.1999.

12. Thereafter, the petitioners promptly filed an application on 28.4.1999, itself, before the first respondent herein for issuing temporary permits with effect from 1.5.1999 in view of the directions of this Court in C.C. No. 704 of 1999. The first respondent in obedience to the directions of this Court in C.C. No. 704 of 1999, passed the following order:

The matter has been examined keeping in view of the interim orders of High Court of Andhra Pradesh in C.C. No. 704/99, dated 28.4.1999 and two temporary permits are granted to the petitioners as indicated below to ply their vehicles for the portion of the route lying in Andhra Pradesh, pending disposal of C.C. No. 704/99 by the High Court or till the expiry of temporary permits whichever is earlier for a period of four months i.e., from 7.5.1999 to 6.9.1999 u/s 87(2)(1) of the Motor Vehicles Act, on double point tax.

13. The APSRTC preferred L.P.A. No. 190 of 1999 against the order dated 28.4.1999 passed in C.C. No. 704 of 1999, by a learned Single Judge of this Court. The L.P.A. was filed on 5.6.1999 itself. It may be noticed that both the writ petitioners herein, apart from the 2nd respondents, are also impleaded as parry respondents in the L.P.A. Notice is also served upon the learned Counsel for the petitioners herein and the same has been received for and on behalf of the learned Counsel for the petitioners on 7.6.1999 itself.

14. The record in L.P.A. No. 190 of 1999, would, further, disclose that the petitioners were also represented when the matter came up for consideration before a Division Bench of this Court, as is evident from the following observation:

Now the submissions made from both sides as to the maintainability of L.P.A. are both for and against. According to Mr. E. Manohar, learned Senior Advocate, appearing for the appellant that the appeal is maintainable in view of the law laid down by the Division Bench of this Court in Md. Kamarudjama, Mandal Revenue Officer, Hanumakonda and another Vs. Elaboina Ramesh and others, . According to Mr. Ramana Reddy, learned Senior Advocate appearing for the respondents herein that such appeal is not maintainable. To support his contention he placed reliance on a decision of a Division Bench of this Court in Vasudeva Sharma Vs.

Executive Officer, T.T.D., Tirupati and Others, .

The controversy requires time for investigation and deep discussion, which can be dealt at length. Now we are on the question whether the temporary permit sought by the petitioners in the writ petition are entitled to get it continued as the same is expiring today or not.

15. After hearing all the learned Counsel, the Division Bench passed the following order on 30.7.1999.

We feel that interim directions given by the learned Single Judge in C.C. No. 704 of 1999 dated 28.4.1999, prima facie, incorrect and beyond jurisdiction. The attack in issue is to the very correctness on the part of the learned Single Judge to make such an interim order, though it is culminating the closure of the contempt proceedings. Since we feel prima facie that the order is incorrect, we suspend the order of the learned Single Judge in C.C. No. 704/99 dated 28.4.1999 for a period of three weeks. Post the appeal for final hearing on 10.8.1999.

16. The appeal again came up for consideration before the Division Bench and on 23.8.1999, the Division Bench directed "status quo existing as on that day to be maintained". That order is still subsisting.

17. In the meanwhile, the first respondent herein filed W.A. No. 1156 of 1999 against the order passed in W.P. No. 33332 of 1998 and a Division Bench of this Court by order dated 21.8.1999 directed that the said writ appeal to be heard alongwith L.P.A. No. 190 of 1999.

18. The petitioners once again filed applications on 24.8.1999 for grant of further temporary permits to ply on the same route and the first respondent readily obliged and accordingly granted temporary permits by proceedings dated 25.9.1999 for a period of four months from 25.9.1999 to 24.1.2000 or till the disposal of the contempt case, whichever is earlier. The said order is purported to have been granted on the ground that the earlier status quo order granted by the Division Bench of this Court for a period of three weeks stood expired on 20.8.1999, enabling the petitioners to ply the vehicles with effect from 21.8.1999. The order dated 23.8.1999 directing to maintain status quo as on that day, according to the first respondent would mean, that the petitioners should be allowed to ply their vehicles as they have started plying the vehicles from 21.8.1999, after expiry of the order of status quo granted on 30.7.1999. The order makes a very interesting reading and it would be appropriate to refer to it.

The status quo as on the date of the orders of the High Court of A.P. is that the permit is valid from 21.8.1999 i.e., after three weeks period of suspension i.e., from 30.7.1999 to 20.8.1999 i.e., "Any order of the Court takes effect from the moment it is passed". The knowledge of the Court is immaterial from which it is effect as clarified in the judgment in Civil Appeal No. 1938 of 1966 dated

2.3.1967 reported in AIR 1967, so in view of the above, suspension will commence from the date of the order in this case i.e., from 30.7.1999 to 20.8.1999. As on the date of issue status quo order is dated 23.8.1999, period of suspension was completed and the permit is valid till 6.9.1999.

In view of the above, application of Sri V. Venkata Rao and Sri V. Reddy Naidu of Yanam dated 24.8.1999 are considered for grant of further temporary permits to ply on the route inter-State route Yanam to Rajahmundry and Yanam to Jagannaikapur as detailed below to ply on double point tax, for the portion lying in Andhra Pradesh State pending disposal of C.C. No. 704 of 1999 and also in L.P.A. No. 190/99, C.M.P. No. 15423/99 in the High Court of Andhra Pradesh for a period of four months from 25.9.1999 to 24.1.2000 or till the disposal of the C.C. No. whichever is earlier u/s 87(2)(1) of the Motor Vehicles Act.

19. The APSRTC filed contempt case C.C. No. 1524 of 1999 on 11.10.1999 for punishing the first respondent herein under the Contempt of Courts Act for deliberate violation of the orders passed by a Division Bench of this Court in L.P.A. No. 190 of 1999 on 23.8.1999. It is the case of the Corporation that the first respondent could not have granted any further permits whatsoever in view of the order passed by the Division Bench of this Court on 23.8.1999, extending the order of status quo earlier granted by it on 30.7.1999.

20. It is pertinent to notice that even this contempt case, alongwith the affidavit filed in support thereof, was served upon the learned Counsel for the petitioners, who are impleaded as party respondents in the contempt case. The same has been received "for and on behalf of the learned Counsel for the petitioners on 11.10.1999". The second respondent herein appeared in the said contempt case and a Division Bench of this Court disposed of the said contempt case observing "in view of the unconditional apology tendered coupled with his act of rectifying the mistake already committed by passing a separate order....

(Emphasis supplied)

21. It is only under those circumstances, the second respondent herein through proceedings dated 15.10.1999 revoked the temporary permits granted earlier to the petitioners. The said order was directed to be communicated to both the petitioners under Registered Post Acknowledgement Due. Thereafter, the first respondent herein issued the impugned proceedings on 16.10.1999, in the light of the proceedings issued by the second respondent dated 15.10.1999, directing the petitioners herein to stop plying of the vehicle with immediate effect. It is that order which is impugned in this writ petition.

22. Learned Senior Counsel appearing for the petitioners, Mr. M.V. Ramana Reddy, submitted that the impugned order passed by the first respondent herein is required to be set aside for the simple reason that the first respondent has no jurisdiction in law to cancel the temporary permits granted by the second respondent. Learned Senior Counsel would further urge that the impugned order is violative of the principles of natural justice. Such an order could not have been

passed by any of the respondents herein without prior notice and affording a reasonable opportunity of being heard in the matter.

23. Learned Government Pleader for Transport contends that the impugned order has been passed by the first respondent only to give effect to an order passed by this Court and in the circumstances, the principles of natural justice are not applicable. It is further submitted by the learned Government Pleader that the order passed by the first respondent is only a consequential one to the order passed by the second respondent revoking the permits. The writ petition may have to be dismissed on the simple ground that the petitioners have failed to question the order passed by the second respondent.

24. Mr. C.V. Ramulu, learned Standing Counsel for the APSRTC contends that the writ petition deserves summary dismissal for the simple reason that the petitioners have suppressed the material facts by withholding the true and correct information for the Court. The petitioners have misled the Court at every given point of time and obtained interlocutory orders at every stage. The petitioners have failed to implead the APSRTC fully knowing that the interest of the Corporation would be adversely affected by any order that may be passed by this Court. The petitioners approached this Court with unclean hands. It is further submitted that no temporary permits at all could have been granted by the second respondent herein on the notified route and under the conditions of the scheme only the existing holders of the stage carriage permits are exempted. The notified schemes are operated to the complete exclusion of all other persons, other than the APSRTC.

Conduct of the Petitioners.

25. The petitioners have not impleaded the APSRTC, as one of the respondents to this writ petition. This Court suo motu passed orders on 5.11.1999, impleading the APSRTC as one of the party respondents. The petitioners are fully aware of the filing of the writ petitions by the Corporation in the Madras High Court. They are impleaded as respondents in that writ petition. The petitioners are also aware of filing of L.P.A. No. 190 of 1999 preferred by the respondent-Corporation against the interlocutory order passed by the learned Single Judge of this Court, in C.C. No. 704 of 1999. The petitioners are also fully aware of the orders passed by a Division Bench of this Court on 30.7.1999 in L.P.A. No. 190 of 1999, extending the interim order of status quo granted on 23.8.1999, passed by the Court. The petitioners are also aware of the contempt case C.C. No. 1524 of 1999 filed, by the APSRTC challenging the order of the second respondent granting temporary permits by order dated 25.9.1999. Though the petitioners are impleaded as party respondents in all these proceedings, filed by the APSRTC, the petitioners have chosen not to implead the APSRTC to the present writ petition, as party respondent. It is a clear attempt on the part of the petitioners to obtain some or the other interlocutory orders in their favour behind the back of the APSRTC, which is virtually the only affected party. The method adopted by the petitioners is most reprehensible. The petitioners undoubtedly,

made deliberate attempts to mislead the Court and obtain orders from this Court adversely affecting the rights of the respondent-Corporation, without impleading the Corporation as party respondent.

26. The petitioners in their affidavit filed in support of "the writ petition, having stated about the order passed by this Court in C.C. No. 704 of 1999, failed to mention anything about the order passed by this Court in L.P.A. No. 190 of 1999, suspending the interlocutory order passed by the learned Single Judge in C.C. No. 704 of 1999. It is nothing but a deliberate attempt on the part of the petitioners to suppress the material facts with a view to mislead this Court. The petitioners having received the notices through their Counsel in C.C. No. 1524 of 1999, filed by the respondent-Corporation, did not state anything about the same in the affidavit filed in support of this writ petition.

27. In the reply affidavit dated 16.11.1999, the petitioners stated that the contempt case C.C. No. 1524 of 1999 was not admitted and no notice was served on them. It is also stated that they have not engaged, Mr. V.V.N. Narayana Rao, as their Counsel in the contempt case and no notice of the contempt case was served on them. It is, however, stated that they came to know that a copy of the contempt case was served on Mr. V.V.N. Narayana Rao. The petitioners have the audacity to state in the reply affidavit that service of papers on the clerk of the Advocate cannot be treated as service of notice to them. An attempt is made to contend that they have not suppressed any material facts.

28. Mr. V.V.N. Narayana Rao, learned Counsel, in his affidavit, submits that he was not engaged in C.C. No. 1524 of 1999, though papers were served on his clerk, before filing the contempt case. It is stated in the said affidavit filed by the learned Counsel that he drafted the affidavit filed in support of the writ petition and bona fide believed that the fact of filing C.C. No. 1524 of 1999 in this Court is not a relevant fact and accordingly omitted to refer to the same. But there was no intention to suppress that fact from the Court. According to the learned Counsel, it is an honest and bona fide view.

29. I would prefer to say a word about the conduct of the Members of the legal fraternity and their duty at a later stage.

30. May be having realised the gravity of the situation, the petitioners have filed another additional affidavit dated 15.11.1999 offering unconditional apology for not mentioning the fact of filing of C.C. No. 1524 of 1999 by the respondent-APSRTC. It reads as follows:

We submit that we offer unconditional apology for not mentioning the fact of filing C.C. No. 1524/99 by the third respondent against the 2nd respondent and the service of the copy of the affidavit on the clerk of Mr. V.V.N. Narayana Rao thinking bonafidely that fact is not relevant or necessary.

31. There is no doubt left in my mind that the petitioners have not only suppressed the material facts in their affidavit; but have also tried to abuse the

judicial process. The petitioners have clearly resorted to tactics, which can only be described as abuse of the process of the Court.

32. The petitioners have stooped to low at every stage to gain an order from this Court. The Court is constrained to observe that of late, statements are being made in the petitions and affidavits recklessly without proper verification not to speak of dishonest and deliberate mis-statements. In the normal course the Court would have accepted the unconditional apology tendered by the petitioners and left the matter there; but for the persistent attempts made by the petitioners at every stage. This Court would be failing in its duty, if it does not record its strong and emphatic disapproval of the conduct of the petitioners in this Court. It is hoped that this would be a lesson to the petitioners, as well as to other litigants, who, at least, in future, will act more truthfully and with greater sense of responsibility.

33. It is well-settled in law that the relief under Article 226 of the Constitution of India is discretionary and the petitioners, who approach the High Court for such relief must come with frank and full disclosure of the facts. If an attempt is made to suppress material facts, the application is liable to be dismissed only on that ground notwithstanding the merits of the claim.

34. Facility of easy access to judicial process is not intended to confer any monopoly upon unscrupulous haves and profiteers to walk away with interlocutory orders from this Court to their advantage. This Court would be failing in its duty if the litigants like the petitioners are not reminded of their obligation to come to this Court with clean hands. Suppression of material facts can never be countenanced by this Court. The streams of justice are to be kept pure and unpolluted. The judicial process and constitutional remedies cannot be permitted to be hijacked by the resourceful litigants like the petitioners. More often than not such resourceful and crafty litigants jump-the queue and march ahead of well deserved but weak waiting in the queue crying for justice. The process deserves reversal. The constitutional Courts are not clearing houses for the grievances of resourceful litigants and vested interests. Nor are they the store houses for distribution of interlocutory orders on demand.

34-A. Principles of natural justice.

(1) Whether the impugned order is violative of principles of natural justice?

(2) Whether the principles of natural justice are applicable at all in the facts and circumstances of the case?

35. It is true that whenever there is a clear violation of the principles of natural justice, the aggrieved person may approach the Court for declaration that the said order is void and for setting aside the same. It is an admitted fact that the respondents have not issued any notice whatsoever before passing the impugned order. But, the question is whether the petitioners are entitled for any notice at all in the facts and circumstances of the case.

36. The rules of natural justice are not embodied rules. Being means to an end and not an end in themselves. The concept of natural justice has meant many things to many writers, jurists and systems of law. They cannot be imprisoned within the strait-jacket of a right formula. The application of the doctrine depends upon the nature of the jurisdiction conferred on the administrative authority, upon the character of the rights of the persons affected, the scheme and policy of the statute and other relevant circumstances disclosed in the particular case. What particular rule of natural justice should apply to a given case must depend "to a great extent" on the facts and circumstances of that case, the frame work of the law under which the enquiry is held. Whenever a complaint is made before a Court that some principle of natural justice had been contravened, the Court has to decide whether the observance of that rule was necessary for a just decision on the facts of that case. See for the proposition : A.K. Kraipak and Others Vs. Union of India (UOI) and Others, ; and Union of India (UOI) and Another Vs. P.K. Roy and Others, . This Court in Sri Rama Engineering Contractors v. Govt. of India 1981 (1) An. WR 327, observed that "natural justice envisaged by the Courts is a canal through which State power may freely flow releasing its energy for the benefit of the citizens and not as a dam to hold it back". The out of the rule of natural justice is fair play in action. In the celebrated judgment in Mohinder Singh Gill and Another Vs. The Chief Election Commissioner, New Delhi and Others, , it is observed by the Supreme Court that "Fairness itself is a flexible, pragmatic and relative concept, not a rigid, ritualistic or sophisticated abstraction. It is not a bull in a china shop, nor a bee in one's bonnet. Its essence is good conscience in a given situation; nothing more-but nothing less. Natural justice should not destroy the administrative order by insisting on the impossible.

38. In The Chairman, Board of Mining Examination and Chief Inspector of Mines and Another Vs. Ramjee, , Justice V.R. Krishna Iyer, speaking for the Court observed that:

Natural justice is no unruly horse, no lurking land mine, nor a judicial cureall. If fairness is shown by the decision maker to the man proceeded against, the form, features and the fundamentals of such essential processual propriety being conditioned by the facts and circumstances of such situation, no breach of natural justice can be complained of. Unnatural expansion of natural justice, without reference to the administrative realities and other factors of a given case, can be exasperating. We can neither be finical nor fanatical but should be flexible yet firm in this jurisdiction.

(Emphasis is of mine)

39. "The concept of natural justice is a magnificent thoroughbred on which this nation gallops forward towards its proclaimed and destined goal of "Justice, social, economic and political". This thoroughbred must not be allowed to turn into a wild and unruly horse, careering off where it lists, unsaddling its rider and bursting into fields where the sign no pasaran is put up. See : Satyavir Singh and

Others Vs. Union of India (UOI) and Others, .

40. Let me now apply all these well-settled principles, almost unanimously laid down by the Courts, in various decisions referred to hereinabove. The circumstances under which the second respondent revoked the temporary permits granted on 25.9.1999 are stated in detail in proceedings dated 15.10.1999. The said proceedings are issued by the second respondent only with a view to give effect to the orders passed by this Court in L.P.A. No. 190 of 1999. In fact, the said proceedings, in a way, received the approval of this Court in C.C. No. 1524 of 1999 dated 29.10.1999. The second respondent has been left with no other choice, except to withdraw the proceedings dated 25.9.1999, in view of the orders passed in L.P.A. No. 190 of 1999. The second respondent having appeared before this Court tendered unconditional apology apart from reporting his act of rectifying the mistake already committed by him by passing an order on 15.10.1999. Precisely for that reason, the Division Bench accepted the unconditional apology tendered by the second respondent in view of his act of rectifying the mistake by passing a separate order on 15.10.1999. This order dated 15.10.1999 passed by the second respondent herein in a way has received the approval of this Court.

41. In my considered opinion the principles of natural justice are not applicable when an order is passed by an authority to give effect to an order/direction issued by this Court. In the circumstances, I hold that there is no violation of the principle of audi alteram partem in this case on hand.

42. It would be apposite to recall the famous dictum of Lord Denning that "the rules of natural justice must not be stretched too far. Only too often the people who have done wrong seek to invoke "the rules of natural justice" so as to avoid the consequences". This dictum, in its entirety applies to the facts of the case on hand. The petitioners have invoked the Rules of natural justice to avoid the consequences and to maintain the order obtained in their favour, which is not in accordance with law.

43. Be that as it may, even in cases where the facts are not all admitted or beyond dispute, there is a considerable unanimity that the Court can, in exercise of their "discretion", refuse certiorari, prohibition, mandamus or injunction even though natural justice is not followed, if admitted and indisputable facts show that grant of writ will be in vain. See M.C. Mehta Vs. Union of India (UOI) and Others, .

44. The Court will be well within limits in refusing to grant relief in exercise of its discretion and refuse to strike down the impugned order, if such striking down will result in restoration of another order passed earlier in favour of the petitioner in violation of the principles of natural justice or is otherwise not in accordance with law.

45. The proceedings dated 25.9.1999 granting temporary permits are not in accordance with law and such temporary permits could not have been granted by

the second respondent during the pendency of the L.P.A. No. 190/99, apart from other reasons, such as pendency of writ petitions filed by the APSRTC before the Madras High Court and the route in question being a notified one, etc.

A Word About the Role of Lawyers:

46. Mr. V.V.N. Narayana Rao, learned Advocate on record, in his affidavit admits that he was engaged by the petitioners as their Counsel not only in C.C. No. 704 of 1999 but also in L.P.A. No. 190/99. But he was not engaged in C.C. No. 1524/99, filed by the APSRTC, though papers were served on his clerk before filing of the contempt case. It is stated that the petitioners were accordingly informed by him about the service of papers in contempt case - C.C. No. 1524 of 1999. It is further stated that he drafted the affidavit filed in support of the writ petition. In the affidavit, he says that he bona fide believed that the fact of filing of C.C. No. 1524/99 by APSRTC is not relevant and accordingly omitted to refer to the same in the affidavit. He claims that his opinion to be honest and bona fide one. He says "I discharged my duties as an Advocate in drafting affidavits by mentioning all the necessary and relevant facts. I offer my unconditional apology to this Court for non-mention of that fact in the affidavit". In view of such unconditional apology I do not wish to say anything further in the matter.

47. In view of the general importance of the question as to the role of Lawyers, I propose to make few observations before parting away with the case. A lawyer is an integral part of administration of justice. Courts to a very large extent depend upon the learning, scholarship and wisdom of the Counsel appearing in the matter. The Courts lean heavily upon the Counsel for guidance. True, every Advocate has right to give such advice to his client, which he bona fide believes to be true and correct. It may be part of his duty. But he has important responsibilities to the Court as well as to his client. A lawyer cannot be viewed as a hired gun. The Advocate is more than a mouthpiece. He owes allegiance to a higher cause. See : *Rondel v. Worsley* 1967 (1) QB 443 (Lord Denning MR).

48. In the same case (*supra*), Lord Pearce observed "that a lawyer has a duty to use the weapons of advocacy in the pursuit of justice and to elucidate the truth in the public interest with an approach which is as biased in favour of his client's contentions, as public considerations allow 1969 (1) AC 191". Chief Justice Cardozo said that "an Advocate has been received into that ancient fellowship for something more than private gain. He becomes an officer of the Court and like the Court itself an instrument or agency to advance the ends of justice". The experience of the Courts suggest that they rely heavily upon the integrity and fairness of the Counsel in the presentation of the case and drafting of the pleadings. In *Rondel's* case (*supra*), Lord Morris observed that "to a certain extent every Advocate is an *amicus curiae*". Such is the importance attached to the legal profession by the Court.

49. No Advocate has any right to withhold any material information and the relevant facts which may have bearing upon the result of the lis before the Court.

There is no such privilege conferred upon any Counsel. Advocates are not entitled to advise their clients to withhold or suppress material information and relevant facts from the Court. The duty of an Advocate is on the other hand is to advise the litigants to state all relevant facts.

50. I conclude with the observations made by Lord Denning about the Role of Lawyers - "In giving his opinion before hand, he must only advise proceedings if there is a reasonable case to be made--putting away from himself, like the plague, any thought of the extra fees which would come to him if the case was fought--and remembering the hardship on the other side if harassed unfairly. He must assist the Court in the administration of justice and must not deceive or knowingly or recklessly mislead the Court either on the facts or on the law.

(Emphasis is of mine)

CONCLUSIONS:

51. The following are the inescapable conclusions:

(1) The petitioners are guilty of suppression of material facts as they have failed to mention anything about the orders passed by this Court in L.P.A. No. 190 of 1999. The petitioners suppressed the factum of APSRTC filing the contempt case - C.C, No. 1524 of 1999 against the second respondent herein and the petitioners. Both the said facts would have a direct bearing on the question relating to the validity of the impugned order. The petitioners have also failed to reveal that the first respondent herein merely issued the consequential order dated 16.10.1999, pursuant to the substantial order passed by the second respondent on 15.10.1999.

(2) In the given facts and circumstances, the Rule of audi alteram partem has no application whatsoever. The principles of natural justice are not applicable to a case where an order is passed by the authority to give effect or implement the orders/directions of the Court.

(3) The conduct of the petitioners disentitle them for any relief under Article 226 of the Constitution of India, which is a highly discretionary remedy.

(4) The orders obtained by the petitioners from time-to-time from this Court without impleading the APSRTC as one of the respondents, which is undoubtedly a proper and necessary party, has adversely affected the interest of the Corporation and the public interest. The same would amount to abuse of judicial process.

52. For all the aforesaid reasons, I do not find any merit whatsoever in this writ petition. The writ petition shall stand accordingly dismissed, with costs quantified at Rs. 15,000.00 (Rs. fifteen thousand only), payable to the third respondent-Corporation.