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Amanullah Ghori Vs. Apsrtc, Hyd. and ors.

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Court : Andhra Pradesh

Decided On : Mar-13-2002

Reported in : 2002(3)ALD333; 2002(5)ALT4

Judge : T. Meena Kumari, J.

Acts : Constitution of India - Article 226

Appeal No. : WP No. 942 of 2002

Appellant : Amanullah Ghori

Respondent : Apsrtc, Hyd. and ors.

Advocate for Pet/Ap. : S. Subhan, ;C. Ramachandra Raju, ;S. Sharath Kumar, ;P. Giri Krishna, ;K.L.N. Swamy and ;E.V. Bhagiratha Rao, Advs., ;K. Harinath and ;C.V. Ramulu, SC for APSRTC

Disposition : Petitions dismissed

Judgement :

T. Meena Kumari, J.

1. Since the issue involved in these writ petitions is one andthe same, they are clubbed together and are being disposed of by this common judgment.

2. The main issue involved in these writ petitions is that the petitioners are in occupation of various stalls in the bus-stations of the Road Transport Corporation in the entire State by paying rents. It is submitted by the leaned Counsel for the petitioners that the employees of the Road Transport Corporation went on strike in the entire Sate from 15-10-2001 to 7-11-2001 and that during that strike period, the petitioners were forced to close down their stalls by the Corporation to avoid any untoward incident till the strike was called off. It is also submitted that even when some petitioners tried to open their stalls and conduct business during the strike period, they were not permitted to open the stalls by the officials of the Corporation. Thus, the learned Counsel for the petitioners submit that the petitioners have not conducted the business in the stalls allotted to them by the Corporation during the strike period.

3. It is submitted by the learned Counsel for the petitioners that since the petitioners did not conduct business during the strike period, some of them made representations to the respondents for remission of rents of the stalls but the same were turned down by the respondents and thus they were asked to pay the rents during the strike period also though they did not conduct any business. The said action of the respondents is impugned in these writ petitions.

4. The learned Counsel for the petitioners submits that since the petitioners did not conduct any business in view of the fact that the respondents have asked them to close their shops during the strike period to avoid any untoward incidents, the respondents ought to have consideredtheir representation made for remission of rents during the period they have not conducted the business due to the strike of the employees of the Corporation. The learned Counsel for the petitioners submit that the respondents instead of considering their representations made for remission of rent during the strike period, they have directed them to pay the rents even for the said period also and thus the action of the respondents is illegal and hence the petitioners request this Court to direct the respondents for remission of rents during the strike period.

5. On the other hand, the learned Standing Counsel for the Corporation submits that the petitioners have no right to invoke the jurisdiction of this Court under

Article 226 of the Constitution of India and the proper remedy to the petitioners is to approach the civil Court to redress their grievances. The learned Standing Counsel further submits that the petitioners were not asked to close their stalls during the strike period and that the petitioners did not file any document to show that the respondents-Corporation did direct them to close their stalls during the strike period. The learned Standing Counsel for the Corporation submits that the petitioners did not allege violation of any statutory rule and hence the petitioners have no right to approach this Court invoking the extra ordinary jurisdiction under Article 226 of the Constitution of India.

6. In support of their contention, the learned Standing Counsel for the Corporation have relied on the decision of the Supreme Court in the case of Har Shankar v. Deputy E&T; Commr., : [1975]3SCR254 . The learned Standing Counsel also submit that the Supreme Court has followed the said decision in the case of Divisional Forest Officer v. Bishwanath Tea Company Limited, : [1981]3SCR662 .

7. In the case of Har Shankar (supra), the Supreme Court held that a writ petition is not an appropriate remedy for impeaching validity of contractual obligations. In the case of Divisional Forest Officer (supra), it has been held by the Supreme Court at para 9 as follows:

'Ordinarily, where a breach of contract is complained of, a party complaining of such breach may sue for specific performance of the contract, if contract is capable of being specifically performed, or the party may sue for damages. Such a suit would ordinarily be cognizable by the civil Court. The High Court in its extraordinary jurisdiction would not entertain a petition either for specific performance of contract or for recovering damages. A right to relief flowing from a contract has to be claimed in a civil Court where a suit for specific performance of contract or for damages could be filed.....'

8. Thus, from the above decision it is clear that this Court under Article 226 of the Constitution of India cannot entertain any claim arising out of the violation of the contractual obligations. The main grievance of the petitioners in these writ petitions is that there is violation of the contractual obligations but not complained of any violation of the rules by the Corporation. Thus, the violation of contractual

obligations cannot be remedied by invoking the extra ordinary jurisdiction of this Court under Article 226 of the Constitution of India, The petitioners have also failed to substantiate their contention by placing any material before this Court that the respondents have directed the petitioners to close the stalls during the strike period.

9. For the foregoing discussion, these writ petitions are liable to be dismissed and they are accordingly dismissed.

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