



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF AUGUST, 2023

BEFORE

THE HON'BLE MR JUSTICE R. NATARAJ

WRIT PETITION NO. 39016 OF 2011 (GM-RES)

BETWEEN:

SRI. CHIKKANNA,

...PETITIONER

(BY SMT. SAKSHI M. KRISHA, ADVOCATE FOR
SRI. ABBHIJIT HARANHALLI, ADVOCATE)

AND:

1. THE KARNATAKA LEGISLATIVE
ASSEMBLY SECRETARIAT,
VIDHANA SOUDHA,
DR. AMBEDKAR VEEDHI,
BANGALORE - 560 001.
REPRESENTED BY UNDER SECRETORY.

2. THE HON'BLE SPEAKER,
KARNATAKA LEGISLATIVE ASSEMBLY,
VIDHANA SOUDHA, DR. AMBEDKAR VEEDHI,
BANGALORE - 560 001.

...RESPONDENTS

(BY SRI. RAHUL CARIAPPA, AGA FOR R1;
VIDE ORDER DATED: 23/11/2011,
NOTICE AGAINST R-2 UNNECESSARY)



THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE COMMUNICATION ISSUED BY R1 TO THE PETITIONER DTD.3.7.10 VIDE ANNEX-A AND ETC.,

THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

The petitioner has sought for a writ in the nature of certiorari to quash the communication issued by respondent No.1 bearing No.LPS-I/VI.PRA.MU/TADA/09 dated 03.07.2010 (Annexure-A) and for a declaration that the order passed by the respondents to recover a sum of Rs.3,89,800/- from the allowances payable to the petitioner as arbitrary, illegal. He also sought for a Writ in the nature of Mandamus to direct respondent No.2 to consider his representation dated 05.01.2011 and to waive of the amount sought to be recovered from the allowances payable to the petitioner.

2. The petitioner, then a member of the Karnataka Legislative Assembly, was nominated as one of the members of a Committee to study the legal systems in foreign countries. The Committee had organized a tour to study the legal system in Australia, New Zealand, Hong Kong and Bangkok between 23.08.2009 to 10.09.2009. The study tour delegation



comprised of 13 members from the subordinate legislative Committee and 03 officials. The State Government had agreed to bear the expenditure for the study tour organized, particularly towards the airfare and for accommodation, food etc. The State Government had credited an amount of Rs.3,89,800/- to the petitioner's account so as to enable him to release the payment to the authorized travel agent, namely M/s.Cox and kings who had entered into a memorandum of understanding with the Karnataka Legislative Assembly. The date of departure for Australia was scheduled on 23.08.2009. The authorized travel agent had made the bookings for the travel of the petitioner and had incurred expenditure in that regard. However, just 05 days prior to the scheduled departure, the petitioner purportedly informed respondent No.2 that he cannot travel as he was unwell. He contended that out of the sum of Rs.3,89,800/- credited into his account, he had issued a cheque for a sum of Rs.3,25,000/- and paid cash of Rs.90,000/-. He therefore submitted a letter dated 26.12.2009 to respondent No.2 requesting him to take appropriate steps to recover a sum of Rs.4,15,000/- from M/s.Cox and Kings. This was followed by another letter dated 26.12.2009 addressed by



petitioner to respondent No.1 and the jurisdictional police as well as the concerned person at M/s.Cox and kings. In response to this, respondent No.1 addressed a letter dated 25.02.2010 to M/s. Cox and Kings requesting him to consider the request of the petitioner and finalize the accounts after deducting the cancellation charges at the earliest. It is claimed by the petitioner that respondent No.1, in terms of the letter dated 25.03.2010 called upon the petitioner to refund a sum of Rs.3,89,800/-. In the meanwhile, the authorized travel agent addressed a letter dated 13.05.2010 in reply to the letter dated 25.02.2010 stating that it had finally settled to refund 20% of the tour cost paid by the petitioner, amounting to a sum of Rs.80,000/-. The petitioner contends that he was unable to travel due to his medical condition as he was suffering from viral fever and therefore, the tour cost was not recoverable from him. He claimed that the respondent No.2 had passed an order to recover the amount without hearing him and without providing an opportunity of being heard.

3. *Per contra* the learned Additional Government Advocate submits that the petitioner had undertaken to refund the entire tour cost if he did not travel as per the schedule. He



relied upon annexure-R1 dated 10.08.2009. As per the cancellation policy of M/s.Cox and Kings, if the cancellation was 10 days prior to the departure, 100% of the tour cost was to be deducted. He further submits that nonetheless, the authorized agent had agreed to refund 20% of the tour cost to the petitioner as a good will gesture since the cancellation of the tour was very close to the date of departure. Therefore, he contends that the petitioner was bound to repay the amount of the tour cost of Rs.3,89,800/-.

4. I have considered the submissions made by the learned counsel for the petitioner as well as the learned counsel for the respondents.

5. The fact that a sum of Rs.3,89,800/- was released to the petitioner to make appropriate payment to the authorized tour operator is not much in dispute. It is also not in dispute that, as per the terms entered into between respondent No.2 and the tour operator, 100% of the tour cost had to be deducted if the cancellation was 10 days prior to the departure. In the present case, the tour was scheduled on 23.08.2009 but the request to cancel the tour was made by the petitioner on



18.08.2009 which was very close to the date of departure. Therefore, the tour operator cannot be expected to refund the tour cost as the operator would have already spent corresponding amounts on the airfare, accommodation etc. In that view of the matter, the petitioner cannot now contend that he was unable to travel due to reasons beyond his control and also contend that he was not liable to refund a sum of Rs.3,89,800/-. The order of respondent No.2 to recover the cost from the allowance payable to petitioner did not involve adjudication of any right of the petitioner as all facts were undisputed. Thus, there was no need to comply the principles of natural justice before ordering the recovery of Rs.3,89,800/- from the allowance payable to the petitioner.

In that view of the matter, the order passed by the respondents proposing to recover the tour cost from the allowance payable to the petitioner is neither arbitrary nor illegal and consequently, this writ petition lacks merits and the same is dismissed.

**Sd/-
JUDGE**

PK
CT: ABS