2026 INSC 495

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.7371 OF 2026
[@ SLP (C) NO.7242 OF 2026]

B. YERRAJI & ORS. …APPELLANTS
A1: B. YERRAJI
A2: J. APPA RAO
A3: N. SRINIVASA RAO
A4: CH. SRIRAMULU
A5: S. KANAKARAJU
A6: M. YELLAJI RAO
A7: N. THATARAO
A8: S. APPAYAMMA
A9: D. VENKATA RATHNAM
A10: G. APPALARAJU
A11: G. APPALA RAJU
A12: B. KANAKA RAJU
A13: N. APPA RAO
A14: M. GANDHI
A15: J. KONDA BABU

VERSUS

THE STATE OF ANDHRA PRADESH & ORS. …RESPONDENTS
R1: THE STATE OF ANDHRA PRADESH *REP.* BY ITS SECRETARY
R2: THE VISAKHAPATNAM MUNICIPAL CORPORATION
R3: B. BHASKAR RAO
R4: M. PENTAYYA
R5: D. DEMUDU
R6: L. BHASKAR RAO
R7: K. APPANNA
R8: N. APPALA NAIDU
R9: R. SRINIVASA RAO
R10: V. RAMA RAO

J U D G M E N T

AHSANUDDIN AMANULLAH, J.

Heard Mr. V. Chitambaresh, learned senior counsel for the appellants; Ms. Prerna Singh, learned counsel for respondent no.1-State of Andhra Pradesh, and; Mr. Sateesh Galla, learned counsel for respondent no.2-Visakhapatnam Municipal Corporation.

2. Leave granted.

2.1 The *lis* before us is, at the core, simply one of many, wherein despite an order in its favour that has long attained finality, the successful party is yet to reap the benefits thereof. While nestled in the service law category, this appeal concerns implementation, rather than adjudication.

BACKGROUND:

3. The appellants are aggrieved by the dismissal of Writ Petition No.44392 of 2018 preferred by them before the High Court of Andhra Pradesh at Amaravati (hereinafter referred to as the 'High Court') *vide*

Order dated 25.02.2025 (hereinafter referred to as the 'Impugned Order') passed by a learned Division Bench [**2025 SCC OnLine AP 1329**]. By way of the said Writ Petition, the appellants had sought implementation of the Order dated 20.07.2012 passed by the learned (erstwhile) Andhra Pradesh Administrative Tribunal, Hyderabad (hereinafter referred to as the 'Tribunal') in O. A. No.5971 of 2012. The relief granted to the appellants by the Tribunal having remained unimplemented, the appellants invoked contempt jurisdiction before the Tribunal, which petitions came to be dismissed on the ground that it was filed beyond limitation i.e., after the lapse of more than one year of the date when the cause of action had accrued. Thereafter, the appellants moved the High Court through the Writ Petition adverted to *supra*.

3.1 There is a chequered aspect to the litigative history of this case, which the High Court has duly narrated as under:

> '*9. Initially, the petitioners filed C.A.No.1986 of 2013 in O.A.No.5971 of 2012, which was dismissed as barred by limitation, by order dated 10.09.2015. The petitioners, later on filed M.A. No. 1835 of 2016, in E.A.SR No.9013 of 2016 in O.A., for condonation of delay in filing execution petition, after a delay of about four years. The M.A., was allowed, by order dated 11.01.2017, on the condition, that each petitioner pays a sum of Rs. 1,000/- to the Andhra Pradesh Legal Services Authority within eight weeks, and in the event of non-compliance, the M.A., shall stand dismissed and E.A.SR., shall stand automatically rejected.*

10. The order dated 11.01.2027 reads as under:-

“In the circumstances stated in the Miscellaneous Application, the delay of four years, four months and ten days shall stand condoned on condition of the applicants 1 to 27 paying at the rate of Rs.1,000/- each to Andhra Pradesh State Legal Services Authority, Hyderabad, within a period of eight weeks from today; and in default, this Miscellaneous Application shall stand dismissed and the EASR shall stand rejected automatically.”

11. Challenging the order dated 11.01.2017, the petitioner filed W.P.No.32682 of 2017 before this Court. The Writ Petition was dismissed as withdrawn by the petitioners, vide order dated 22.09.2017 after the petitioners' counsel made such request, though he had presented arguments at some length.

12. The order dated 22.09.2017 reads as under:-

“This Writ Petition is filed for the following substantive relief:

"... to issue Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus by calling for the records in relating to orders passed in MA No.1835/2016 in EASR No.9013/2016 in OA No.5971/2012 dt. 11.01.2017 of the Andhra Pradesh Administrative Tribunal at Hyderabad and aside the same by declaring as illegal, arbitrary and set contrary to the rules and consequently, to direct the IGH COL respondents to release, the periodical increments to the petitioner from the date of release of time scale as it was done in the cases of similarly situated persons”

After arguing the case, Mr. P.Suresh Reddy, counsel representing Mr. B.Bhaskar Reddy learned counsel for the petitioners, seeks permission of the Court to withdraw the Writ Petition. The Writ Petition is, accordingly, dismissed as withdrawn. As sequel, WPMP.No.40642 of 2017 is dismissed as infructuous.”

13. The petitioners without disclosing the above facts filed the present W.P.No.44392 of 2018. It was previously allowed vide order dated 16.09.2019, directing the respondents to take action as per the orders passed by the Tribunal in O.A.No.5971 of 2012, within a period of three (03) months from the date of receipt of a copy of that order.

14. The order dated 16.09.2019 remained uncomplied, so the petitioners filed Contempt Case No.401 of 2020.

15. The respondents herein filed Review I.A.No.1 of 2021, interalia submitting suppression of facts by the petitioners and no opportunity to file counter affidavit in W.P.No.44392 of 2018. The Review I.A.No.1 of 2021 was allowed by order dated 23.08.2024. The order dated 16.09.2019 was set aside and the present W.P.No.44392 of 2018 was restored to file for hearing.
16. The Contempt Case No.401 of 2020 was dismissed, however, leaving it open to take fresh steps if occasion so arose, if the writ petition allowed.' (sic)

SUBMISSIONS:

4. Learned senior counsel for the appellants submitted that the appellants are Grade-IV employees and had been granted the benefit of minimum of the regular scale after being in service for a long number of years and even that benefit had not been granted to them despite having an Order in their favour. It was contended that the respondents did not prefer any appeal before the High Court challenging the Tribunal's Order dated 20.07.2012 and the same having attained finality, payments ought to have been made to the appellants.

4.1 It was contended, in addition, that the same learned counsel for the appellants had appeared before the Tribunal and the High Court. Referring to such fact, it was urged that one of the grounds recorded in the Impugned Order, while dismissing the Writ Petition, was that the appellants had suppressed the fact that earlier, they had moved the

Tribunal in contempt proceedings, which resulted in dismissal. It was further contended that when the same learned counsel was present in both fora, there was nothing for the clients (appellants herein) to further brief their advocates inasmuch as the (same) learned counsel was already aware of the filing of the contempt petition before the Tribunal and thereafter the Writ Petition in the High Court. Any omission in this behalf, submitted the learned senior counsel, ought not to and, cannot fasten liability on the clients-appellants.[1]

4.2 In the above circumstances, it was urged that the appeal deserved to be allowed.

5. Learned counsel for respondents no.1 and 2 jointly submitted that due to passage of time, the appellants cannot be granted any relief at such belated stage. It was also canvassed that the appellants having not been vigilant about their rights, they cannot now seek benefits which they otherwise claim to be entitled to.

5.1 Attention was drawn to the High Court's view:

> '*19. We have gone through the order dated 22.09.2017 passed in W.P.No.32682 of 2017, which was got dismissed as withdrawn, after arguing at some length. This Court did not grant any liberty to file fresh writ*

[1] The stand of the appellants (petitioners before the High Court) was that they do '*not dispute the above facts, but tried to justify non-disclosure submitting that it was considered not relevant or necessary.*'

petition. The proper course for the petitioners would have been, after dismissal of their W.P.No.32682 of 2017, to have complied with the order of the Tribunal dated 11.01.2017 in E.A.SR.No.9013 of 2016. But, they had chosen to file another writ petition, the present one, and that too, suppressing all the previous proceedings including dismissal of their W.P.No.32682 of 2017. They also succeeded, as the present writ petition was initially allowed, which order however was subsequently reviewed, restoring this writ petition for hearing fresh.' (sic)

5.2 Learned counsel, thus, supported the Impugned Order and stated that the appeal deserved dismissal.

ANALYSIS, REASONING AND CONCLUSION:

6. The relevant discussion from the Impugned Order can be culled out as under:

'*18. We are not satisfied with the aforesaid explanation or justification stated and we observe it is a very sorry state of affairs, to say the least.*

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*21. In **Ramjas Foundation and Another** (supra), cited by the learned counsel for the respondents, the Hon'ble Apex Court reiterated that the applicant must state fully and fairly the facts, and the penalty by which the Court enforces that obligation is that if it finds that the facts have not been fully and fairly stated to it, the Court will set aside any action which it has taken on the faith of the imperfect statement. …*

*22. In **Thatipamula Naresh Kumar** (supra), the High Court of Telangana observed that the applicant, who does not come with candid facts and clean freest cannot hold a writ of the Court with 'soiled hands'. …*

> *23. Recently, in **Kusha Duruka Vs. State of Odisha**, the Hon'ble Apex Court referred to its previous pronouncements in **K.D.Sharma Vs. Sail**, in which, it was laid down …*
> *24. The petitioners have abused the process of this Court. They did not approach this Court with clean hands and clean mind. They deliberately suppressed the material facts. Liberty was not granted to file fresh writ petition in dismissal of the previous writ petition. They are not entitled to invoke the writ jurisdiction under Article 226 of the Constitution of India.*
> *25. The Writ Petition is also not maintainable, in view of dismissal of previous W.P.No.32682 of 2017, without any liberty granted to file fresh.*
> *26. The Writ Petition is dismissed.*'[2] (sic)
>
> (emphasis supplied)

6.1 Having considered the matter from various angles, we find that the appellants have made out a case for interdicting the Impugned Order. There is no cavil with the proposition of law noted by the High Court apropos suppression or concealment of facts before a judicial forum. We may, however, gainfully refer to ***S J S Enterprises (P) Ltd. v State of Bihar*, (2004) 7 SCC 166**:

> '***12.** The principal basis on which the Single Judge and the only ground on which the Division Bench of the High Court refused relief to the appellant was because they found that the appellant was guilty of suppression of a material fact viz. the filing of the suit prior to approaching the Court under Article 226.*
> ***13.** As a general rule, suppression of a material fact by a litigant disqualifies such litigant from obtaining any relief. This rule has been evolved out of the need of the courts to deter a litigant from abusing the process of court by deceiving it. But the suppressed fact must be a material*

[2] For brevity, the extracts of the pronouncements referred to are not extracted herein.

one in the sense that had it not been suppressed it would have had an effect on the merits of the case. It must be a matter which was material for the consideration of the court, whatever view the court may have taken [R. v. General Commrs. for the purposes of the Income Tax Act for the District of Kensington, (1917) 1 KB 486 : 86 LJKB 257 : 116 LT 136 (CA)]. Thus when the liability to income tax was questioned by an applicant on the ground of her non-residence, the fact that she had purchased and was maintaining a house in the country was held to be a material fact, the suppression of which disentitled her to the relief claimed [Ibid.]. Again when in earlier proceedings before this Court, the appellant had undertaken that it would not carry on the manufacture of liquor at its distillery and the proceedings before this Court were concluded on that basis, a subsequent writ petition for renewal of the licence to manufacture liquor at the same distillery before the High Court was held to have been initiated for oblique and ulterior purposes and the interim order passed by the High Court in such subsequent application was set aside by this Court [State of Haryana v. Karnal Distillery Co. Ltd., (1977) 2 SCC 431 : AIR 1977 SC 781]. Similarly, a challenge to an order fixing the price was rejected because the petitioners had suppressed the fact that an agreement had been entered into between the petitioners and the Government relating to the fixation of price and that the impugned order had been replaced by another order [Welcom Hotel v. State of A.P., (1983) 4 SCC 575 : 1983 SCC (Cri) 872 : AIR 1983 SC 1015].

14. *Assuming that the explanation given by the appellant that the suit had been filed by one of the Directors of the Company without the knowledge of the Director who almost simultaneously approached the High Court under Article 226 is unbelievable (sic), the question still remains whether the filing of the suit can be said to be a fact material to the disposal of the writ petition on merits. We think not. The existence of an adequate or suitable alternative remedy available to a litigant is merely a factor which a court entertaining an application under Article 226 will consider for exercising the discretion to issue a writ under Article 226 [A.N. Venkateswaran v. Ramchand Sobhraj Wadhwani, AIR 1961 SC 1506]. But the existence of such remedy does*

not impinge upon the jurisdiction of the High Court to deal with the matter itself if it is in a position to do so on the basis of the affidavits filed. If, however, a party has already availed of the alternative remedy while invoking the jurisdiction under Article 226, it would not be appropriate for the court to entertain the writ petition. The rule is based on public policy but the motivating factor is the existence of a parallel jurisdiction in another court. But this Court has also held in Chandra Bhan Gosain v. State of Orissa [(1963) 14 STC 766, 918 : (1964) 2 SCR 879] that even when an alternative remedy has been availed of by a party but not pursued that the party could prosecute proceedings under Article 226 for the same relief. This Court has also held that when a party has already moved the High Court under Article 226 and failed to obtain relief and then moved an application under Article 32 before this Court for the same relief, normally the Court will not entertain the application under Article 32. But where in the parallel jurisdiction, the order is not a speaking one or the matter has been disposed of on some other ground, this Court has, in a suitable case, entertained the application under Article 32 [Tilokchand Motichand v. H.B. Munshi, (1969) 1 SCC 110 : AIR 1970 SC 898]. Instead of dismissing the writ petition on the ground that the alternative remedy had been availed of, the Court may call upon the party to elect whether it will proceed with the alternative remedy or with the application under Article 226 [K.S. Rashid and Son v. Income Tax Investigation Commission, AIR 1954 SC 207]. Therefore, the fact that a suit had already been filed by the appellant was not such a fact the suppression of which could have affected the final disposal of the writ petition on merits.

15. *In this case, admittedly, the appellant has withdrawn the suit two weeks after the suit had been filed. In other words, the appellant elected to pursue its remedies only under Article 226. The pleadings were also complete before the High Court. No doubt, the interim order which was passed by the High Court was obtained when the suit was pending. But by the time the writ petition was heard the suit had already been withdrawn a year earlier. Although the appellant could not, on the High Court's reasoning, take advantage of the interim order, it was not correct in rejecting the writ petition itself when the suit*

> *had admittedly been withdrawn, especially when the matter was ripe for hearing and all the facts necessary for determining the writ petition on merits were before the Court, and when the Court was not of the view that the writ petition was otherwise not maintainable.*'
>
> (emphasis supplied)

7. At the outset, thus, we are called upon to determine upon two facets:

(a) Whether in the absence of liberty to file afresh in W.P. No.32682/2017, W.P. No.44392/2018 could have at all been filed?

(b) Whether non-disclosure of the earlier/connected litigation amounted to suppression of a material fact?

7.1 On (a), it can be seen that W.P. No.32682/2017, which was dismissed as withdrawn on 22.09.2017, had prayed for '*calling for the records in relating to orders passed in MA No.1835/2016 in EASR No.9013/2016 in OA No.5971/2012 dt. 11.01.2017 of the Andhra Pradesh Administrative Tribunal at Hyderabad and aside the same by declaring as illegal, arbitrary and set contrary to the rules and consequently, to direct the IGH COL respondents to release, the periodical increments to the petitioner from the date of release of time scale as it was done in the cases of similarly situated persons*'. By its Order dated 11.01.2017, the Tribunal had agreed to condone the delay of four years, four months and ten days in filing execution petition

subject to '*applicants 1 to 27 paying at the rate of Rs.1,000/- each to Andhra Pradesh State Legal Services Authority, Hyderabad, within a period of eight weeks from today; and in default, this Miscellaneous Application shall stand dismissed and the EASR shall stand rejected automatically.*' It can be seen, thus, that notwithstanding the expansive nature of relief canvassed for in W.P. No.32682/2017, essentially, what had been sought, practically, was the setting aside of the Tribunal's Order dated 11.01.2017 to the extent it imposed costs of Rs.1000 each on the 27 applicants. *Arguendo*, if such relief was granted, it would have entailed the hearing of the execution petition by the Tribunal. Unfortunately, the parties seem unaware as to what finally befell the execution petition i.e., whether the Tribunal heard the same upon payment of the costs ordered, or whether the same came to be dismissed for non-payment of costs. As the appellants subsequently filed W.P. No.44392/2018, it is not illogical to presume that, in whatever scenario, the appellants did not get any relief in the execution petition before the Tribunal. Regrettably, the appellants have not filed a copy of W.P. No.44392/2018 before this Court. We avoid any comment hereon except to note that the same ought to have been placed before this Court. Notwithstanding the same, looking to the nature of the reliefs prayed for in both Writ Petitions, we are of the view that, in the obtaining

facts herein, non-grant of liberty to file a fresh petition would not come in the way of filing Writ Petition No.44392/2018.

7.2 *Qua* (b), we are of the unambiguous opinion that it was not for the appellants to contend as to what was necessary and what was not. It was the duty of the appellants and their learned counsel to place on record all facts germane to or connected with the litigation before the Court. It is for the Court concerned to decide and rule as to what, in a given set of facts, constitutes a 'material fact'. Such leeway has to be given to the Court so that a litigant does not pick-and-choose what to disclose. We are very surprised at the incredulous stance taken before the High Court by the appellants to justify non-disclosure as being '*considered not relevant or necessary*'. To our minds, hence, the earlier/connected proceedings did require the appellants to make full disclosure thereof, which they failed to do so. The approach of the High Court, in this backdrop, is incapable of being faulted. Yet, we are not forgetful of ***Arunima Baruah v Union of India*, (2007) 6 SCC 120**:

> '***11.*** *The court's jurisdiction to determine the lis between the parties, therefore, may be viewed from the human rights concept of access to justice. The same, however, would not mean that the court will have no jurisdiction to deny equitable relief when the complainant does not approach the court with a pair of clean hands; but to what extent such relief should be denied is the question.*
> ***12.*** *It is trite law that so as to enable the court to refuse to exercise its discretionary jurisdiction suppression must be of material fact. What would be a material fact,*

suppression whereof would disentitle the appellant to obtain a discretionary relief, would depend upon the facts and circumstances of each case. Material fact would mean material for the purpose of determination of the lis, the logical corollary whereof would be that whether the same was material for grant or denial of the relief. If the fact suppressed is not material for determination of the lis between the parties, the court may not refuse to exercise its discretionary jurisdiction. It is also trite that a person invoking the discretionary jurisdiction of the court cannot be allowed to approach it with a pair of dirty hands. But even if the said dirt is removed and the hands become clean, whether the relief would still be denied is the question.'

(emphasis supplied)

7.3 In ***Government of NCT of Delhi v BSK Realtors LLP*, (2024) 7 SCC 370**, a 3-Judge Bench of this Court, after taking note of ***S J S Business Enterprises (P) Ltd.*** (*supra*) and ***Arunima Baruah*** (*supra*) [both 2-Judge Bench decisions], held:

'***37.*** *Law is well settled that the fact suppressed must be material in the sense that it would have an effect on the merits of the case. The concept of suppression or non-disclosure of facts transcends mere concealment; it necessitates the deliberate withholding of material facts —those of such critical import that their absence would render any decision unjust. Material facts, in this context, refer to those facts that possess the potential to significantly influence the decision-making process or alter its trajectory. This principle is not intended to arm one party with a weapon of technicality over its adversary but rather serves as a crucial safeguard against the abuse of the judicial process.*'

(emphasis supplied)

8. Bearing the above in mind, we are still persuaded to interfere with the Impugned Order for reasons *infra*:

(i) *Firstly*, the fact remains that the appellants do have an Order in their favour passed by the Tribunal. The same has attained finality and, notably, was never, at any point of time, subjected to any challenge by the respondents no.1 and 2.

(ii) *Secondly*, we are mindful that the respondents no.1 and 2 are '*State*' within the meaning of Article 12 of the Constitution of India. Being so, the said respondents are required to act as and be model employers. It would not lie in their mouths to take a stand that because a party does not get an Order passed by a competent judicial forum executed, it would not comply with or honour the same. The State cannot be heard espousing such contention and is, to our minds, clearly estopped from so doing. To allow the State to do so would tantamount to permitting a party to take advantage of its own wrong, being non-implementation of the Tribunal's Order dated 20.07.2012. *Ex injuria sua nemo habere debet* (no party can take advantage of his/her own wrong) as espoused in ***Kusheshwar Prasad Singh v State of Bihar*, (2007) 11 SCC 447** and restated in ***Machhindranath v Ramchandra Gangadhar Dhamne*, (2025) 7 SCC 450** would be attracted.

(iii) *Thirdly*, another aspect of the matter is that in the present case, the underlying grievance/cause of action is alive for the simple reason that

payments were to be made on a monthly basis, and failure to do so, would, for every such month of non-payment, give rise to a fresh cause of action.

(iv) *Fourthly*, delay in granting relief, insofar as it is attributable to the 'system', cannot act to the appellants' detriment. In ***Union Territory of Ladakh v Jammu and Kashmir National Conference*, (2024) 18 SCC 643**, it was expressed that *'… no litigant should have even an iota of doubt or an impression (rather, a misimpression) that just because of systemic delay or the matter not being taken up by the courts resulting in efflux of time the cause would be defeated, and the Court would be rendered helpless to ensure justice to the party concerned.*'

9. For reasons aforesaid, this Court cannot and would not permit respondents no.1 and 2 to deny the appellants the benefit of an Order passed in their favour, which was never challenged by the said respondents, on the mere ground of delay in invoking/taking recourse to the appropriate judicial machinery in seeking directions for implementation. Needless to state, it cannot be held that the Tribunal's Order dated 20.07.2012 would lose its force by efflux of time. Despite the failings in the appellants' conduct, in the ultimate eventuate, we do hereby set aside the Impugned Order.

10. Accordingly, the appeal is allowed. The concerned respondents are directed to comply with the Order dated 20.07.2012 passed by the Tribunal in O. A. No.5971/2012 and make all required payments to the appellants, within four months from today. We propose no order for payment of interest on these amounts, which should suffice as deterrence for the non-disclosures.

11. I.A. No.7174/2026, seeking exemption from filing a Certified Copy of the Impugned Order/Judgment, is allowed.

……J.
[AHSANUDDIN AMANULLAH]

……J.
[VIPUL M. PANCHOLI

NEW DELHI
MAY 08, 2026