



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

D.B. Spl. Appl. Writ No. 686/2022

Dhanwantri Institute of Medical Science, through its Principal
Ram Kishor Saini, S/o Bhawani Shankar Saini age 46 years
Address Sector 2/6/6 Near K.L. Saini Stadium, Kaveri Path,
Mansarovar, Jaipur

----Appellant

Versus

1. The State Of Rajasthan, Through The Secretary, Medical
and Health Department Government of Rajasthan,
Secretariat, Jaipur

The Rajasthan University of Health Science, through its
Registrar Kumbha Marg, Sector 18, Pratap Nagar, Tonk
Road, Jaipur.

3. Indian Nursing Council, 8th Floor NBCC center, Plot No.2
Community center Okhla, Phase I, New Delhi-110020
through its Secretary.

4. The Rajasthan Nursing Council, Jaipur through its
Registrar, B-39 Sardar Patel Marg, C-Scheme Jaipur.

5. Rajasthan Private Nursing Schools and Colleges
Federation, through its Secretary, 357 Laxmi Nagar,
Paota, B Road, Jodhpur.

---Respondents

For Appellant(s) : Dr. Nupur Bhati

Mr. Shreyansh Mardia

For Respondent(s) : Mr. Virendra Lodha, Sr. Advocate
through V.C. assisted by
Mr. Abhinav Jain



HON'BLE ACTING CHIEF JUSTICE MR. MANINDRA MOHAN SHRIVASTAVA
HON'BLE MR. JUSTICE VINOD KUMAR BHARWANI

Order

04/08/2022

Heard on admission.

Learned counsel for the appellant would argue that dismissal of the writ petition without examination of merits and imposition of heavy cost to the tune of Rs.10 lacs was not warranted in the facts and circumstances of the case inasmuch as the writ petitioner had filed the second writ petition only in exercise of liberty which was granted in the first round of litigation. As long as that order stands, filing of second writ petition in exercise of liberty at principal seat at Jodhpur by itself, without anything more, could not be treated as a cause to forum shopping as the appellant-writ petitioner would have filed petition either at principal seat at Jodhpur or Bench at Jaipur. The appellant-writ petitioner is an educational institute and its non inclusion, withdrawal of affiliation, that too without providing opportunity of hearing, required examination on merits.

After going through the order passed by the learned Single Judge, we find that the writ petition filed by the appellant-writ petitioner was dismissed by the learned Single Judge. Though writ petition was filed on the same cause of action at Jaipur Bench praying for reliefs similar to those which have been prayed for in this second writ petition filed at principal seat at Jodhpur, the first writ petition came to be dismissed as withdrawn vide order dated 26.04.2022 on the application of the writ petitioner itself. Order dated 26.04.2022 would reveal that the writ petition was dismissed as withdrawn with liberty to the writ petitioner to file a



fresh petition in view of subsequent developments. Learned Single Judge further noticed that the earlier writ petition came to be dismissed as withdrawn at Jaipur Bench on 26.04.2022 and on the very next date i.e. on 27.04.2022, second writ petition was filed at principal seat Jodhpur. In addition to this, we also notice that the affidavit in support of the second writ petition was prepared on 24.04.2022 which itself means that the writ petition was already prepared on 24.04.2022 while the case was pending at Jaipur Bench which came to be dismissed as withdrawn two days thereafter i.e. on 26.04.2022.

सत्यमेव जयते A false statement on affidavit was also made by the appellant-writ petitioner in the second writ petition before the principal seat at Jodhpur that the petitioner has not filed any such writ petition either before this Court or before the Supreme Court of India, whereas, it is clear that a writ petition was filed at Jaipur Bench of the High Court which came to be dismissed as withdrawn on 26.04.2022. These startling facts were revealed by the respondents only while hearing on the aspect of maintainability of the writ petition.

In the conspectus of the aforesaid startling facts and circumstances reveling, the conduct of appellant-writ petitioner was rightly condemned by the learned Single Judge with the finding that the petitioner-institution was apprehensive of the fact that it may not get a favourable order from this Court at Jaipur Bench, got second petition filed by suppressing the fact of filing and withdrawal of the first petition before this Court at Jaipur Bench.

It is well settled that one, who seeks to invoke the extraordinary jurisdiction of High Court under Article 226 of the



Constitution of India, is required to come with clean hands. The facts, as narrated hereinabove, and also noticed by the learned Single Judge clearly shows that the conduct of the appellant-writ petitioner is highly condemnable and the observation made by the learned Single Judge that the writ petitioner was engaged in bench hunting cannot be said to be without any basis.

Though, learned counsel for the appellant prayed that in the alternative the cost amount may be reduced, having upheld the order of the learned Single Judge on merits and the manner in which the appellant sought to abuse the process of law, it being an Institution and not a poor person belonging to marginalized section of the society, even in the matter of imposition of cost, we find no ground to interfere.

The appeal is, therefore, dismissed.

(VINOD KUMAR BHARWANI),J (MANINDRA MOHAN SHRIVASTAVA), ACJ

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