Neutral Citation No. - 2023:AHC-LKO:64342-DB

[A.F.R.]

[Reserved]

Court No. - 3

Case :- WRIT - C No. - 3740 of 1998
Petitioner :- U.P.Congress Committee
Respondent :- State of U.P. and Others
Counsel for Petitioner :- J.N.Mathur,I.H. Farooqui,Karunesh Kumar Srivstava,Prabhat Kumar Tripathi
Counsel for Respondent :- C.S.C.,D.K.Srivastava,M.Chandra,Prabhu Ranjan Tripathi,T.Somwanshi,Vishal Singh

Hon'ble Vivek Chaudhary,J.
Hon'ble Manish Kumar,J.

1. Heard Sri I.H. Farooqui, learned counsel for petitioner, learned counsel for respondent no.4 U.P.S.R.T.C. and learned Standing Counsel for the State. Learned counsel for petitioner along with his oral submissions has also provided written submissions dated 23.08.2023.

2. Petitioner, a national political party has approached this Court challenging the recovery notice dated 10.11.1998 issued by Tehsildar, Sadar, Lucknow. The said proceedings are initiated at the instance of respondent no.4 Managing Director, U.P. State Road Transport Corporation (U.P.S.R.T.C.) which claims that an amount of Rs.2,68,29,879.78/- is due on the petitioner which U.P.S.R.T.C. is entitled to recover. The amount due is claimed to be of bills raised against petitioner for use of buses and taxies from U.P.S.R.T.C. by petitioner for its purposes when its Government was in power in State of U.P.

3. When the petition was filed, the sole ground taken in the writ petition was that the amount cannot be recovered under Section 3 of the U.P. Public Moneys (Recovery of Dues) Act, 1972, (hereinafter referred to as 'Act of 1972') as there is no agreement relating to any loan to be recovered as land revenue or advance or grant or relating to credit in respect of, or relating to higher purchase of goods sold to petitioner by U.P.S.R.T.C. which would empower the respondents to recover the said sum under Section 3(1) of Act of 1972. Though, in paragraph-1 of the writ petition it was claimed that the amount is neither due to be paid by petitioner to the respondents nor is the same recoverable as arrears of land revenue, however, there are no details in the writ petition as to why the said amount is not due to be paid by the petitioner to the respondent Corporation. Only submission made in paragraph-17 of the writ petition is that the amount is being recovered as political vendetta and with a view to bring petitioner under political pressure. When the petition was placed before this Court for the first time on 26.11.1998 this Court passed the following order:-

> *"The petitioner's counsel is permitted to amend the designation of the opposite party no.1.*
>
> *Sri Vishal Singh accepts notice on behalf of opposite party no.4. The learned Standing Counsel accepts notice on behalf of opposite party no.1 to 3.*
>
> *The parties counsel agree that their client will sit and settle their dispute amicably. In these circumstances, the opposite party no.4 is directed to show the accounts to the petitioner on a fixed date as agreed by the parties.*
>
> *List in January, 99. The recovery proceedings shall remain stayed till the next listing."*

4. The matter is pending since the year 1998 and after 25 years also it could not be settled between the parties. Hence, this Court has taken up the matter to be decided on merits.

5. Counter affidavits are filed by respondent no.1 State of U.P. as well as respondent no.4 U.P.S.R.T.C. in support of the demand. The counter affidavit filed by Sri Mazid Ali, Principal Secretary, Transport Department of Government of U.P. along with application dated 02.11.2011 provides a detailed chart of the demand raised against the petitioner and claims that between the years 1981 and 1989 vehicles in the nature of buses, taxi etc. were provided to the petitioner party by U.P.S.R.T.C., on directions of Chief Minister and Minister concerned, who all belonged to petitioner party, for which bills were regularly raised and were liable to be paid by petitioner. The same remained pending and, hence, now recovery certificate is issued against petitioner. Total amount as per chart filed as annexure CA-1 is Rs.266.72 lakhs. (Dues were of Rs.268.30 Lakhs out of which Rs.1.58 Lakhs was recovered through Tehsildar in 2003.) Number of communications made by the officers of respondent U.P.S.R.T.C. to the petitioner from the year 1981 to 1990 are also filed raising bills and repeatedly requesting for payment of the same. Similarly a counter affidavit is filed by Sri P.K. Srivastava, General Manager (Passenger Facility), U.P. State Road Transport Corporation, Lucknow along with an application dated 16.08.1999 and along with the same also different bills/reminders sent to the petitioner by corporation are annexed. Communications were also filed in furtherance of the order of this Court dated 26.11.1998 requesting petitioner to sit and settle the matter.

A rejoinder affidavit dated 23.04.2003 is filed by the petitioner to the counter affidavit filed on behalf of respondent no.4. The stand taken by the petitioner is reflected in paragraph 4 and 7 of the said rejoinder affidavit which reads as follow:-

> *"4. That the contents of para 2 are incorrect, hence denied and those of para 1 of the writ petition are reiterated. There has been no liability of the petitioner to pay any due to the opposite parties. It is denied that the petitioners have ever hired bus, taxi or any vehicle from the opposite party no.4 as claimed by the said opposite party. Whenever the petitioner has applied for hiring any vehicle from the opposite parties, it has been after following due process of requisitioning and payments have been made as per rules of the opposite party no.4. It may be relevant to point out that the opposite party no.4 does not lend its vehicle to the private individuals or Organizations without their depositing the requisite amount of fair and without fulfilling formalities such as making indent on forms prescribed.* ***Infact, the opposite party no.4 appears from documents filed alongwith the counter affidavit Itself, especially Annexure No. CA-1, letter dated 19-12- 1994 & 19-9-1994 as well as Annexure No. CA-5 dated 17-4-1999 that the opposite party no.4 has provided certain vehicles as per instructions/ orders issued by the then Chief Minister/Transport Minister/Transport Secretary etc. for the purposes of meetings of the Prime Minister which may be in pursuance of some decision of the U.P. Government. In the circumstances, the State Government was liable to pay the amount fee due, if any against provision of those vehicles. But instead making demand from the State Government and the persons/officers concerned. the opposite party no.4, acting on instructions of the political leadership/Chief Minister/Transport Minister has tried to fasen liability on the petitioner in order to malign it out of political vendetta and for harassing the petitioner.*** *It may be relevant to point out that the impugned orders have been passed at a time when the Chief Minister and other Ministers have launched a vilification complaint against the rival political*

parties/opposition parties including the Indian National Congress for ulterior motives.

5. ……

6. ……

7. That the contents of para 5 & 6 are denied as incorrect and those of para 4 & 5 of the writ petition are reiterated. ***The opposite party had not sent any demand letter prior to the receipt of impugned order dated 10-11- 1998. The opposite party no.4 may have concocted documents for the purposes of their own or may have kept some documents in file. The opposite party has not come out with any proof or evidence in support of their claim that any letter claimed to have been sent to the petitioner has Infact over been sent. Many of the alleged letters infact even not addressed to the petitioner. In any case, there has been no liability of the petitioner to pay anything to the opposite party no.4. So far as the documents filed as Annexure No.CA-1 are concerned, it is specifically stated that they have not been sent to the petitioner at all.*** *However, the very first letter dated 19-9-1994 refers to some letter dated 6-11-1992 which has not been filed by the opposite parties. Further, a vague statement has been made in the said letter by the opposite party no.4 that the opposite party no.4 had made buses and taxies available for the purposes of rallies organized by the Congress Party on the oral and written orders of the petitioner and the U.P. Government as well as Chief Minister/Ministers of the then U.P. Government. So far as it claims that the petitioner has issued any order or so for making the buses available is denied. The opposite parties have been filed any document claimed to have been written by the petitioner alongwith the counter affidavit. So far as making buses available on oral request is concerned, the same appears to be wholly concocted. Infact, the opposite party no.4 does not make any vehicle available nor can it do so on the oral request of anyone.* ***It appears to be a cover up story. However, the real part of the story is clear from mentioning by the opposite party no.4 itself that the vehicles were made available on the orders of the State Government and the then Chief Minister/Ministers. It being so the opposite party no.4 ought to have demanded money for them from the persons/officers who had placed orders. It cannot be claimed any***

amount of money against such orders of State Government officials from the U.P.C.C. There has been no privity of contract between the petitioner and the opposite parties. Hence, the opposite parties have got no right to make a demand of money from the petitioner.

It is further submitted that the so-called letter of the opposite party no.4 are dated 1994 or so. The opposite partles have not made clear that if they had any claim why they did not issue proper demand letter to the petitioner and got it served officially and received its acknowledgement. Further, if there was any valid claim, the opposite parties ought to have file a civil suit for recovery of the same which has not been done. No such step has been taken which clearly indicates that the opposite parties are trying to fasen liabilities of others/its own Government Officers/Ministers, Chief Ministers etc., if any, on the petitioner for ulterior motives. The contents of para 4 & 5 of the petition are reiterated in this regard."

6. A supplementary affidavit along with application dated 27.08.2018 on behalf of respondent no.4 is also filed by Sri Harmeet Singh Gaba, Chief General Manager (Operation), U.P.S.R.T.C., Lucknow. Along with the same repeated communications made are filed requiring petitioner to clear the amount. Along with the same a letter dated 18.08.2000 is also filed specifically stating that as required by petitioner a meeting has also taken place and all the required documents are already provided to the petitioner. It also states that petitioner had assured that after taking advise from their chartered accountant they shall report back. Along with the said affidavit a communication dated 29.03.1988 of U.P.S.R.T.C. pointing out that vehicles were provided from time to time to the petitioner and for that part payment/advance payment was also made by the petitioner and, therefore, now petitioner should clear the said dues. The said letter was replied on 23.04.1988 by Sri Jagat Pal Singh, the General Secretary of petitioner, which

is filed as S.A.3. In the said reply, General Secretary of petitioner stated that the remaining dues of U.P.S.R.T.C. upon petitioner are being arranged to be cleared as early as possible.

7. From the record filed by the parties before this Court, more particularly, documents filed along with counter affidavit of Sri Mazid Ali along with application dated 02.11.2011, it is apparent that vehicles were provided on rent for the political rallies and activities of petitioner by U.P.S.R.T.C. Letter dated 02.04.1981 written by Up Prahdan Prabandhak (Sanchalan), U.P.S.R.T.C. shows that a bill of Rs.6,21,692.55/- was raised on 02.04.1981 for kisan rally organized by petitioner on 16.02.1981; similarly another communication dated 16.12.1984 shows that a bill of Rs.8,69,045.31/- is due for providing vehicles for ferrying people to pay homage on 19.11.1984 to the ashes of late Prime Minister Mrs. Indira Gandhi. Another communication of December, 1984 is for carrying people on 20.10.1984 to a venue being visited by the Prime Minister. Again by communication dated 09.09.1987 a bill is raised on account of visit of Prime Minister on 01.08.1987 at Allahabad. The said bills remained pending upon the petitioner. Again a communication dated 02.09.1987 is made reminding petitioner for amount due against petitioner and for payment thereof. Again a communication dated 17.02.1989 was issued detailing all the pending bills, which till then were of Rs.68,89,860.86./- The same also notes that an advance earlier given by receipt no.527988 dated 27.10.1988 of Rs.10 Lakhs and vide receipt no.527990 dated 29.10.1988 of Rs.1,50,000, total 11,50,000/- is adjusted and thereafter

an amount of Rs.57,39,860.86 is due. Thereafter, again communication dated 18.12.1989 raising a bill of Rs.1,29,981.65/- on account of visit of Prime Minister at Kannauj on 31.08.1989 was made. Further, a bill of Rs.52,828/- for the same visit of Prime Minister dated 31.08.1989 at Kannauj was raised. All the said documents clearly denotes that petitioner while being a ruling party in the State of U.P. availed facilities of vehicles for its political activities from U.P.S.R.T.C. The same at times were on the directions of the then Chief Minister or Minister concerned. It had also paid some advance money on two occasions. However, remaining bills were left pending, though, repeated reminders were sent to the petitioner. There is nothing on record denying specific details given in the aforesaid communications. A very vague stand is taken by the petitioner it its rejoinder affidavit which is already quoted above, that, bills are concocted and false. There is no denial of the receipts specifically mentioned to in the communications as well as assurance letter dated 23.04.1988 given by Sri Jagat Pal Singh, General Secretary of petitioner for payment of dues. Thus, petitioner fails to satisfy on record that it had not utilized vehicles provided by respondent no.4 on its request, be it on direction of Chief Minister or Minister concerned, who also belonged to the petitioner political party. The said vehicles were used for the political gatherings/activities of the petitioner.

8. The sole submission raised through written submission as well as oral arguments is that there was no agreement between the parties to recover the dues as arrears of land revenue as mandated under Section 3(1)(a) of the Act of

1972, hence, amount cannot be recovered from the petitioner.

9. On the other hand counsel for respondent corporation strongly submits that it is public money which is involved in the present matter and, hence, the Court, while looking into the technical arguments of the petitioner, should also consider the equities involved.

10. By Notification No.U.P.423/1-7-76 Rev.-7, Lucknow, dated, July 30, 1975 respondent no.4 U.P. State Road Transport Corporation stands notified under Section 2(a) of the Act of 1972 for the purposes of the said Act. However, admittedly, there is no agreement between the parties that the aforesaid amount can be recovered as arrears of land revenue under Section 3(1)(d) of the Act of 1972, which requires *"Agreement providing that any money payable thereunder to the State Government (or the Corporation) shall be recoverable as arrears of land revenue."* Thus, technically speaking, the amount claimed by respondent no.4 is not covered by Section 3. of the Act of 1972.

11. However, it is also not in dispute that petitioner while being party in power and running its government in the State of U.P. being in a dominant position utilized services of respondent no.4 U.P.S.R.T.C. All the bills were duly raised at the relevant time only against petitioner but it never settled the said bills. Even when the writ petition was placed before this Court for the first time, petitioner showed its inclination to sit and settle the matter, but with passage of time petitioner has totally changed its stand and now is raising submissions only on technicalities. In the entire writ petition not even a single word is stated with regard to liability of petitioner to pay the said amount. In

the rejoinder affidavit stand is taken for the first time that the said facilities were provided to the petitioner on the directions of Chief Minister, Minister concerned or the Secretary concerned which must be under some directions of the State Government and, thus, amount is to be paid by the State Government. There is no evidence filed in support of the said submission. There is nothing on record to show that any decision was ever taken by the State Government to pay the said dues. The documents filed along with the counter affidavit show that the concerned Ministers/Secretary only directed for providing the said vehicles to the party on its applications. Thus, it is not in dispute that petitioner had utilized services of vehicles of respondent no.4 for its political activities and has not paid bills raised for the same. Admittedly, U.P.S.R.T.C. is running on public money and provides services to public at large. No doubt it is a government corporation and is under total control of State Government. It is bound to comply with the direction of Chief Minister or the Minister concerned and, thus, was not in a position to refuse vehicle to political party which was running the Government. In the given circumstances, the question before this Court is as to whether in exercise of its extraordinary discretionary jurisdiction this Court should interfere in the recovery proceedings initiated by respondent no.4. The law in this regard is very well settled. In a catena of judgments, both this Court and Supreme Court have emphasised that while exercising discretionary jurisdiction under Article 226, the High Court must ensure that justice is done, equity be upheld and injustice is eliminated. In ***Jodhey vs State***, reported as ***AIR 1952 All 788***, this Court considered the discretionary and equitable jurisdiction of the High Court

and the manner in which the same ought to be exercised. Relevant portion of the same reads:-

> *"There are no limits, fetters or restrictions placed on this power of superintendence in this Clause and the purpose of this Article seems to be to make the High Court the custodian of all justice within the territorial limits of its jurisdiction and to arm it with a weapon that could be wielded for the purpose of seeing that justice is meted out fairly and properly by the bodies mentioned therein. "(emphasis supplied)*

12. In ***Gadde Venkateswara Rao v. Govt. of A.P.; AIR 1966 SC 828***, a three judges Bench of the Supreme Court affirmed the judgment of the Andhra Pradesh High Court where it refused to interfere into a matter on merit even when the appellant alleged violation of principles of natural justice. The Supreme Court observed that if the impugned order passed by the Government would have been set aside by the High Court, it would have restored an illegal order. Paragraph 19 of the judgment reads:-

> *"19. The result of the discussion may be stated thus: The Primary Health Centre was not permanently located at Dharmajigudem. The representatives of the said village did not comply with the necessary conditions for such location. The Panchayat Samithi finally cancelled its earlier resolutions which they were entitled to do and passed a resolution for locating the Primary Health Centre permanently at Lingopalem. Both the orders of the Government, namely, the order dated March 7, 1962, and that dated April 18, 1963, were not legally passed: the former, because it was made without giving notice to the Panchayat Samithi, and the latter, because the Government had no power under Section 72 of the Act to review an order made under Section 62 of the Act and also because it did not give notice to the representatives of Dharmajigudem village. In those circumstances, was it a case for the High Court to interfere in its discretion and quash the order of the Government dated April 18, 1963?* ***If the High Court had quashed the said order, it would have restored an illegal order it would have given the Health Centre to a village contrary to the valid resolutions passed by the Panchayat Samithi. The High Court, therefore, in our view, rightly refused to exercise***

> ***its extraordinary discretionary power in the circumstances of the case."*** *(emphasis supplied)*

13. In ***Commissioner of Income Tax, Madras and Ors. vs. Vinod Kumar Didwania and Ors.; AIR 1987 SC 1260***, Supreme Court deprecated the conduct of the private respondent who first got the interim injunction and then withdrew the petition. It was held that the respondent has abused the process of law and therefore he could not be allowed to retain undue benefits received by him under the garb of interim injunction. Relevant portion of paragraph 3 of the said judgment is quoted hereafter:-

> *"3. The learned Attorney General appearing on behalf of the Deputy Director of Inspection submitted before us that the amount representing the value of the goods removed from the three godowns should be restituted by the 1st Respondent since the goods were removed by him under an ex parte order of injunction obtained from the High Court of Calcutta in the Writ Petition filed by him and the nefarious purpose of filing the Writ Petition having been accomplished by removal of the goods, the writ petition was withdrawn. There is great force in his submission of the learned Attorney General. There is no doubt that the 1st Respondent has abused the process of the Court for securing removal of the goods from the three godowns and he cannot be allowed to retain that advantage....."*

14. In ***Mohammad Swalleh v. Third Additonal District Judge, Meerut; (1988) 1 SCC 40*** the Supreme Court dismissed an appeal against an order passed by the High Court wherein the High Court refused to interfere with the order of the District Court which had no jurisdiction to entertain an appeal from the Prescribed Authority under the scheme of the Act on the ground that setting aside District Court's order would mean restoring the erroneous order of the Prescribed Authority. Paragraph 7 of the above referred judgment of the Supreme Court reads:-

> *"7. It was contended before the High Court that no appeal lay from the decision of the prescribed authority to the District Judge. The High Court*

> *accepted this contention. The High Court finally held that though the appeal laid (sic no appeal lay) before the District Judge, the order of the prescribed authority was invalid and was rightly set aside by the District Judge. On that ground the High Court declined to interfere with the order of the learned District Judge. It is true that there has been some technical breach because if there is no appeal maintainable before the learned District Judge, in the appeal before the learned District Judge, the same could not be set aside. But the High Court was exercising its jurisdiction under Article 226 of the Constitution. The High Court had come to the conclusion that the order of the prescribed authority was invalid and improper. The High Court itself could have set it aside. Therefore in the facts and circumstances of the case justice has been done though as mentioned hereinbefore, technically the appellant had a point that the order of the District Judge was illegal and improper.* ***If we reiterate the order of the High Court as it is setting aside the order of the prescribed authority in exercise of the jurisdiction under Article 226 of the Constitution then no exception can be taken. As mentioned hereinbefore, justice has been done and as the improper order of the prescribed authority has been set aside, no objection can be taken."*** *(emphasis supplied)*

15. In ***Shangrila Food Products Ltd. v. LIC, (1996) 5 SCC 54*** the Supreme Court reiterated that while exercising jurisdiction under Article 226 and 227 of the Constitution, a duty is casted upon the High Courts to see to it that equity is upheld. High Court must ensure that any undue advantage gained by a party prior to invoking discretionary jurisdiction of the High Court ought to be taken into account before granting it any relief. Relevant paragraph 11 of the same reads:-

> ***"11. It is well settled that the High Court in exercise of its jurisdiction under Article 226 of the Constitution can take cognisance of the entire facts and circumstances of the case and pass appropriate orders to give the parties complete and substantial justice. This jurisdiction of the High Court, being extraordinary, is normally exercisable keeping in***

> ***mind the principles of equity. One of the ends of the equity is to promote honesty and fair play. If there be any unfair advantage gained by a party priorly, before invoking the jurisdiction of the High Court, the Court can take into account the unfair advantage gained and can require the party to shed the unfair gain before granting relief****. What precisely has been done by the learned Single Judge, is clear from the above emphasised words which may be reread with advantage. The question of claim to damages and their ascertainment would only arise in the event of the Life Insurance Corporation, respondent, succeeding to prove that the appellant Company was an unlawful sub-tenant and therefore in unauthorised occupation of public premises. If the findings were to go in favour of the appellant Company and it is proved to be a lawful sub- tenant and hence not an unauthorised occupant, the direction to adjudge the claim for damages would be rendered sterile and otiose. It is only in the event of the appellant Company being held to be an unlawful sub- tenant and hence an unauthorised occupant that the claim for damages would be determinable. We see therefore no fault in the High Court adopting such course in order to balance the equities between the contestants especially when it otherwise had power of superintendence under Article 227 of the Constitution in addition. We cannot be oblivious to the fact that when the occupation of the premises in question was a factor in continuation of the liability to pay for the use and occupation thereof, be it in the form of rent or damages, was also a continuing factor.* ***The cause of justice, as viewed by the High Court, did clearly warrant that both these questions be viewed interdependently. For those who seek equity must bow to equity."*** *(emphasis supplied)*

16. In ***Roshan Deen vs. Preeti Lal; (2002) 1 SCC 100***, the Supreme Court while setting aside an order passed by the High Court observed that the High Courts while exercising power of superintendence under Article 226 and 227 should ensure that such exercise must ensure that justice is done and at the same time injustice is eliminated. Paragraph 12 of the same reads:-

> *"12. We are greatly disturbed by the insensitivity reflected in the impugned judgment rendered by the learned Single Judge in a case where judicial mind would be tempted to utilize all possible legal measures to impart justice to a man mutilated so outrageously by his cruel destiny. The High Court non-suited him in exercise of a supervisory and extraordinary jurisdiction envisaged under Article 227 of the Constitution. Time and again this Court has reminded that the power conferred on the High Court under Articles 226 and 227 of the Constitution is to advance justice and not to thwart it (vide State of U.P. v. District Judge, Unnao [(1984) 2 SCC 673: AIR 1984 SC 1401]). The very purpose of such constitutional powers being conferred on the High Courts is that no man should be subjected to injustice by violating the law. The lookout of the High Court is, therefore, not merely to pick out any error of law through an academic angle but to see whether injustice has resulted on account of any erroneous interpretation of law. If justice became the by-product of an erroneous view of law the High Court is not expected to erase such justice in the name of correcting the error of law,"*

17. A Division Bench of the Supreme Court in the case of ***Ramesh Chandra Sankla and Others vs. Vikram Cement and Others and other connected matters***, reported as (***2008) 14 SCC 58*** has considered, affirmed, and reiterated all the aforesaid judgments and held in paragraphs 98 that:-

> *"98. From the above cases, it clearly transpires that powers under Articles 226 and 227 are discretionary and equitable and are required to be exercised in the larger interest of justice. While granting relief in favour of the applicant, the Court must take into account balancing interests and equities. It can mould relief considering the facts of the case. It can pass an appropriate order which justice may demand and equities may project. As observed by this Court in Shiv Shankar Dal Mills v. State of Haryana, (1980) 1 SCR 1170,* ***Courts of equity should go much further both to give and refuse relief in furtherance of public interest. Granting or withholding of relief may properly be dependent***

upon considerations of justice, equity and good conscience."*(emphasis supplied)*

18. The law repeatedly settled by the Supreme Court is that the High Court should exercise its discretionary jurisdiction in such a manner which would advance end of justice and uproot injustice. It should exercise power conferred under Article 226 and 227 of the Constitution of India in a manner that provides complete and substantial justice to parties. The Supreme Court in ***Shangrila (supra)*** has held that ***"One of the ends of the equity is to promote honesty and fair play. If there be any unfair advantage gained by a party, priorly, before invoking the jurisdiction of the High Court, the Court can take into account the unfair advantage gained and can require the party to shed the unfair gain before granting relief."*** From the law settled by the Supreme Court it is clear that while exercising power under Article 226 and 227 of Constitution of India, the Court must give and refuse relief in furtherance of public interest. Granting or withholding of relief must be dependent upon considerations of justice, equity and good conscience.

19. In the present case, the political party in power had exercised its dominant position and utilized public property for its political purposes. The bills were raised to the petitioner political party but it ignored to pay the same and, while the earlier dues were pending, again being in power it availed facilities from the respondent U.P.S.R.T.C. without paying its dues. Merely by stating that after change of government due to political vendetta the amount is wrongly being recovered or taking a technical ground that amount cannot be recovered as arrears of land revenue, it can not be granted liberty to escape its liability to pay its bills. There is no doubt that question of recovery of public money is involved in the present case, which is used for

political purposes by the petitioner, therefore, petitioner is bound to pay the said amount. The amount is pending for last around 25-30 years and is not cleared by the petitioner as yet. Petitioner showed its intention when it had filed the present writ petition and obtained interim order but for last 25 years it has not acted in furtherance of the assurance given on the first date of hearing. Even though, the amount is not recoverable under the provisions of Act of 1972 but for the reasons discussed above, this Court does not find it a fit case for exercising its discretionary jurisdiction in favour of petitioner. In view of the aforesaid judgments of the Supreme Court, more particularly in view of judgments passed in ***Shangrila Food Products Ltd. (supra)*** and ***Ramesh Chandra Sanka and Others (supra),*** petitioner is directed to pay to the respondents U.P.S.R.T.C. entire due of Rs.266 Lakhs along with an interest of 5% from the date it is due within a period of three months.

20. With the aforesaid, the writ petition is ***disposed of.***

Order Date :- 05.10.2023
Arti/-

[Manish Kumar,J.] **[Vivek Chaudhary,J.]**