

**HIGH COURT OF JUDICATURE AT ALLAHABAD**

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**PUBLIC INTEREST LITIGATION (PIL) No. 433 of 2022**

Ram Prasad Rajouriya

...Petitioner

Through:- Mr. Ram Sanehi Yadav, Advocate

v/s

State of U.P. and others

...Respondents

Through:- Mr. A.K. Roy, Additional Chief Standing Counsel for  
respondent Nos.1 to 4 and Mr. Krishna Kant Singh,  
Advocate for respondent No.6

**CORAM : HON'BLE RAJESH BINDAL, CHIEF JUSTICE  
HON'BLE J.J. MUNIR, JUDGE**

**ORDER**

1. The present petition has been filed claiming to be in public interest praying for the following reliefs:

"(a) Issue a writ, order or direction in the nature of Mandamus commanding/directing the respondents authority to recover the embezzled money from the respondents No.5 and 6.

(b) Issue a writ, order or direction in the nature of Mandamus commanding/directing the respondents authority to take suitable action against the respondents No.5 and 6 due to their illegal act in the embezzlement of Government money granted for the development of Gram Panchayat Barai Shahpur, Tehsil and Block Sikandra Rao, District Hathras.

(c) Issue a writ, order or direction in the nature of Mandamus commanding/directing the respondent No.2- District Magistrate,

District Hathras to decide the representation dated 16.12.2019 filed by the petitioner (Annexure No.2 to the Public Litigation Petition)."

2. The learned counsel for the petitioner referred to an order passed by District Magistrate dated August 24, 2017 vide which a Committee was constituted to inquire into alleged embezzlement of funds by the Gram Pradhan. The grievance raised is that no action has been taken.

3. The learned counsel for respondent No.6 produced before us the order passed by this Court in Writ-C No.8261 of 2018, titled as Ram Prasad Rajouria v. State of U.P. and others filed by the petitioner earlier in which same relief was claimed. The aforesaid writ petition was dismissed on March 15, 2018. He submitted that the factum of filing of the aforesaid writ petition has not been disclosed by the petitioner in the present petition.

4. Finding himself to be in awkward situation, learned counsel for the petitioner submitted that he may be permitted to withdraw the present petition.

5. The issue regarding approaching the Court by concealing the facts has been examined by Hon'ble the Supreme Court on number of occasions and it has been opined that the same is polluting the stream of justice.

6. In **Abhyudya Sanstha Vs. Union of India, (2011) 6 SCC 145**, Hon'ble the Supreme Court, while declining relief to the petitioners therein, who did not approach the court with clean hands, opined as under :-

"18. ... In our view, the appellants deserve to be non suited because they have not approached the Court with clean hands. The plea of inadvertent mistake put forward by the learned senior counsel for the appellants and their submission that the

Court may take lenient view and order regularisation of the admissions already made sounds attractive but does not merit acceptance. Each of the appellants consciously made a statement that it had been granted recognition by the NCTE, which necessarily implies that recognition was granted in terms of Section 14 of the Act read with Regulations 7 and 8 of the 2007 Regulations. Those managing the affairs of the appellants do not belong to the category of innocent, illiterate/uneducated persons, who are not conversant with the relevant statutory provisions and the court process. The very fact that each of the appellants had submitted LPASW No. 82/2019 Page 7 application in terms of Regulation 7 and made itself available for inspection by the team constituted by WRC, Bhopal shows that they were fully aware of the fact that they can get recognition only after fulfilling the conditions specified in the Act and the Regulations and that WRC, Bhopal had not granted recognition to them. Notwithstanding this, they made bold statement that they had been granted recognition by the competent authority and thereby succeeded in persuading this Court to entertain the special leave petitions and pass interim orders. The minimum, which can be said about the appellants is that they have not approached the Court with clean hands and succeeded in polluting the stream of justice by making patently false statement. Therefore, they are not entitled to relief under Article 136 of the Constitution. This view finds support from plethora of precedents.

19. In **Hari Narain v. Badri Das AIR 1963 SC 1558**, **G. Narayanaswamy Reddy v. Govt. of Karnataka (1991) 3 SCC 261** and large number of other cases, this Court denied relief to the petitioner/appellant on the ground that he had not approached the Court with clean hands. In **Hari Narain v.**

**Badri Das** (supra), the Court revoked the leave granted to the appellant and observed:

"It is of utmost importance that in making material statements and setting forth grounds in applications for special leave made under Article 136 of the Constitution, care must be taken not to make any statements which are inaccurate, untrue or misleading. In dealing with applications for special leave, the Court naturally takes statements of fact and grounds of fact contained in the petitions at their face value and it LPASW No. 82/2019 Page 8 would be unfair to betray the confidence of the Court by making statements which are untrue and misleading. Thus, if at the hearing of the appeal the Supreme Court is satisfied that the material statements made by the appellant in his application for special leave are inaccurate and misleading, and the respondent is entitled to contend that the appellant may have obtained special leave from the Supreme Court on the strength of what he characterises as misrepresentations of facts contained in the petition for special leave, the Supreme Court may come to the conclusion that in such a case special leave granted to the appellant ought to be revoked."

20. In **G. Narayanaswamy Reddy v. Govt. of Karnataka's** case (supra), the Court while noticing the fact regarding the stay order passed by the High Court which prevented passing of the award by the Land Acquisition Officer within the prescribed time period was concealed and in the aforesaid context, it observed that:

"2. ... Curiously enough, there is no reference in the special leave petitions to any of the stay orders and we came to know about these orders only when the respondents appeared in response to the notice and filed their counter- affidavit. In our view, the said interim orders have a direct bearing on the question raised and the non-disclosure of the same certainly amounts to suppression of material facts. On this ground alone, the special leave petitions are liable to be rejected. It is well settled in law that the relief under Article 136 of the Constitution is discretionary and a petitioner who approaches this Court for such relief must come with frank and full disclosure of facts. If he fails to do so and suppresses material facts, his application is liable to be dismissed. We accordingly dismiss the special leave petitions."

21. In **Dalip Singh v. State of U.P., (2010) 2 SCC 114**, Hon'ble the Supreme Court noticed the progressive decline in the values of life and observed:

"1. For many centuries Indian society cherished two basic values of life i.e. "satya" (truth) and "ahinsa" (non-violence). Mahavir, Gautam Buddha and Mahatma Gandhi guided the people to ingrain these values in their daily life. Truth constituted an integral part of the justice-delivery system which was in vogue in the pre-Independence era and the people used to feel proud to tell truth in the courts irrespective of the consequences. However, post-Independence period has seen drastic changes in our value system. The materialism has overshadowed the old ethos and the quest for personal

gain has become so intense that those involved in litigation do not hesitate to take shelter of falsehood, misrepresentation and suppression of facts in the court proceedings.

2. In the last 40 years, a new creed of litigants has cropped up. Those who belong to this creed do not have any respect for truth. They shamelessly resort to falsehood and unethical means for achieving their goals. In order to meet the challenge posed by this new creed of litigants, the courts have, from time to time, evolved new rules and it is now well established that a litigant, who attempts to pollute the stream of justice or who touches the pure fountain of justice with tainted hands, is not entitled to any relief, interim or final. (emphasis supplied)

7. In **Moti Lal Songara Vs. Prem Prakash @ Pappu and another (2013) 9 SCC 199**, Hon'ble the Supreme Court, considering the issue regarding concealment of facts before the Court, while observing that "court is not a laboratory where children come to play", opined as under:

"19. The second limb of the submission is whether in the obtaining factual matrix, the order passed by the High Court discharging the accused-respondent is justified in law. We have clearly stated that though the respondent was fully aware about the fact that charges had been framed against him by the learned trial Judge, yet he did not bring the same to the notice of the revisional court hearing the revision against the order taking cognizance. It is a clear case of suppression. It was within the special knowledge of the accused. Any one who takes recourse to method of suppression in a court of law, is, in actuality,

playing fraud with the court, and the maxim supressio veri, expression faisi , i.e., suppression of the truth is equivalent to the expression of falsehood, gets attracted. We are compelled to say so as there has been a calculated concealment of the fact before the revisional court. It can be stated with certitude that the accused- respondent tried to gain advantage by such factual suppression. The fraudulent intention is writ large. In fact, he has shown his courage of ignorance and tried to play possum.

20. The High Court, as we have seen, applied the principle "when infrastructure collapses, the superstructure is bound to collapse". However, as the order has been obtained by practising fraud and suppressing material fact before a court of law to gain advantage, the said order cannot be allowed to stand." (emphasis supplied)

8. Similar view has been expressed in **Amar Singh v. Union of India and others, (2011)7 SCC 69** and **Kishore Samrite v. State of Uttar Pradesh and others, (2013)2 SCC 398.**

9. In a recent judgment in **ABCD Vs. Union of India and others (2020) 2 SCC 52**, Hon'ble the Supreme Court in the matter where material facts had been concealed, while issuing notice to the petitioner therein, exercising its suo-motu contempt power, observed as under :

"15. Making a false statement on oath is an offence punishable under Section 181 of the IPC while furnishing false information with intent to cause public servant to use his lawful power to the injury of another person is punishable under Section 182 of the IPC. These offences by virtue of Section 195(1)(a)(i) of the Code can be taken cognizance of by any court only upon a proper complaint in writing as stated in said Section. In respect of matters coming under Section 195(1)(b)(i)

of the Code, in *Pushpadevi M. Jatia v. M.L. Wadhawan etc.*, (1987) 3 SCC 367 prosecution was directed to be launched after prima facie satisfaction was recorded by this Court.

16. It has also been laid down by this Court in **Chandra Shashi v. Anil Kumar Verma (1995) 1 SCC 421** that a person who makes an attempt to deceive the court, interferes with the administration of justice and can be held guilty of contempt of court. In that case a husband who had filed a fabricated document to oppose the prayer of his wife seeking transfer of matrimonial proceedings was found guilty of contempt of court and sentenced to two weeks imprisonment. It was observed as under:

"1. The stream of administration of justice has to remain unpolluted so that purity of court's atmosphere may give vitality to all the organs of the State. Polluters of judicial firmament are, therefore, required to be well taken care of to maintain the sublimity of court's environment; so also to enable it to administer justice fairly and to the satisfaction of all concerned.

2. Anyone who takes recourse to fraud, deflects the course of judicial proceedings; or if anything is done with oblique motive, the same interferes with the administration of justice. Such persons are required to be properly dealt with, not only to punish them for the wrong done, but also to deter others from indulging in similar acts which shake the faith of people in the system of administration of justice.

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14. The legal position thus is that if the publication be with intent to deceive the court or one made with an intention to defraud, the same would be contempt, as it would interfere with administration of justice. It would, in any case, tend to interfere with the same. This would definitely be so if a fabricated document is filed with the aforesaid mens rea. In the case at hand the fabricated document was apparently to deceive the court; the intention to defraud is writ large. Anil Kumar is, therefore, guilty of contempt."

17. In **K.D. Sharma Vs. Steel Authority of India Limited and others (2008) 12 SCC 481** it was observed:

"39. If the primary object as highlighted in Kensington Income Tax Commrs., (1917) 1 KB 486 : 86 LJKB 257 : 116 LT 136 (CA) is kept in mind, an applicant who does not come with candid facts and "clean breast" cannot hold a writ of the court with "soiled hands". Suppression or concealment of material facts is not an advocacy. It is a jugglery, manipulation, manoeuvring or misrepresentation, which has no place in equitable and prerogative jurisdiction. If the applicant does not disclose all the material facts fairly and truly but states them in a distorted manner and misleads the court, the court has inherent power in order to protect itself and to prevent an abuse of its process to discharge the rule nisi and refuse to proceed further with the examination of the case on merits. If the court does not reject the petition on that ground, the court would be failing in its duty. In fact, such an applicant requires to be dealt with for contempt of court for abusing the process of the court."

18. In **Dhananjay Sharma Vs. State of Haryana and others** (1995) 3 SCC 757 filing of a false affidavit was the basis for initiation of action in contempt jurisdiction and the concerned persons were punished.”

10. It was held in the judgments referred to above that one of the two cherished basic values by Indian society for centuries is “satya” (truth) and the same has been put under the carpet by the petitioner. Truth constituted an integral part of the justice-delivery system in the pre-Independence era, however, post-Independence period has seen drastic changes in our value system. The materialism has overshadowed the old ethos and the quest for personal gain has become so intense that those involved in litigation do not hesitate to take shelter of falsehood, misrepresentation and suppression of facts in the court proceedings. In the last 40 years, the values have gone down and now a litigant can go to any extent to mislead the court. They have no respect for the truth. The principle has been evolved to meet the challenge posed by this new breed of litigants. Now it is well settled that a litigant, who attempts to pollute the stream of justice or who touches the pure fountain of justice with tainted hands, is not entitled to any relief, interim or final. Suppression of material facts from the court of law, is actually playing fraud with the court. The maxim *supressio veri, expressio falsi*, i.e. suppression of the truth is equivalent to the expression of falsehood, gets attracted.

11. In view of the aforesaid authoritative pronouncements of law on the issue of concealment of facts by a litigant, if we allow the petitioner to withdraw the present petition even then we feel that he deserves to be burdened with cost.

12. The petition is, accordingly, dismissed with cost of ₹50,000/-. The cost shall be deposited with the Allahabad High Court Bar Association within a period of two months. In case of failure, the Bar Association shall

be at liberty to move application in the present petition for recovery of the amount from the petitioner.

(J.J. Munir)  
Judge

(Rajesh Bindal)  
Chief Justice

Allahabad  
10.03.2022  
Rakesh/Kuldeep

Whether the order is speaking : Yes/No  
Whether the order is reportable : Yes