

A.F.R.**Court No. - 4****Case :-** WRIT - C No. - 17483 of 2017**Petitioner :-** Nripendra Kumar Dhusia**Respondent :-** Union Of India Thru Secy. And 3 Others**Counsel for Petitioner :-** Santosh Kumar Singh**Counsel for Respondent :-** A.S.G.I., Archana Singh, Pramod Kumar Pandey**Hon'ble Bala Krishna Narayana, J.****Hon'ble Prakash Padia, J.****Per Hon'ble Prakash Padia, J.**

1. Personal affidavit of the petitioner filed today in the Court is taken on record.
2. Heard learned counsel for the petitioner.
3. The office of learned Additional Solicitor General of India has accepted notice on behalf of the respondent no.1. Ms. Manjina Singh, learned counsel, holding brief of Smt. Archana Singh appears for the respondents no.2 and 3.
4. Notice need not to be issued to respondent no. 4 in view of the order which is proposed to be passed today.
5. The petitioner has preferred the present writ petition with the following prayers :-

"I. Issue a writ, order or direction in the nature of Mandamus commanding and directing the respondent no.3 not give any effect to the draw of lot/bidding process taken place on 29.03.2017 for allotment of Kishan Sewa Kendra Village Retail Out-let dealership at MDR-167 (Chitbaragaon to Ghazipur Road), Block Sohaon, District Ballia only.

II. Issue a writ, order or direction in the nature of Mandamus commanding and directing the respondent no.3 to get hold inquiry on the

complaint/representation dated 30.03.2017 submitted by the petitioner personally and take appropriate decision for fresh draw of lot/bidding process only in respect of MDR-167 (Chitbaragaon to Ghazipur Road) Block Sohaon, Tehsil Ballia Sadar, District Ballia.

III. Issue a writ, order or direction in the nature of Mandamus commanding and directing the respondent no.3 not permit to respondent no.4 for any auction if such draw of lot/bidding of process given in favour of the respondent no.4 at M.D.R.-167 (Chitbaragaon to Ghazipur Road) Block Sohaon, Tehsil Ballia Sadar, District Ballia.”

6. The facts in brief as contained in the writ petition are that the respondent Indian Oil Corporation Ltd. published an advertisement on 17.10.2014 for appointment of large number of dealers for opening of Kishan Sewa Kendra Village Retail Out let dealership in the State of U.P. At serial number 145 of the aforesaid advertisement the location was mentioned as MDR-167, (Chitbara Gaon to Ghazipur Road) at Firozpur Block Sohaon, Tehsil Ballia Sadar, District Ballia. The location in question is reserved for schedule caste category candidates.

7. For the purpose of establishment of Kishan Sewa Kendra one of the necessary condition was for the applicants to provide land for establishment of the retail outlet. The land proposed to be provided by the applicants are of two types namely Group 1 type (own land) or Group 2 type (firm).

8. The petitioner has applied for the location in question providing land under Group A category. It is contended that all the necessary papers and documents were duly submitted by the petitioner along-with his application form. It is further contended that after the application form was submitted by the petitioner the respondent

no.3/Senior Divisional Retail Sales Manager, Indian Oil Corporation Limited (MD), Varanasi Divisional Office, District Varanasi issued a letter to the petitioner on 31.7.2016 asking certain more details/documents. It is stated that the informations were duly provided by the petitioner in the office of the respondent no.3 well within time and all the deficiencies were removed by him.

9. The petitioner received another letter dated 30.12.2016 by which he was directed that the Land Evaluation Committee (LEC) will visit site of land and as such he was requested to be present on the site along-with photo identity card on 18.1.2017. The Land Evaluation Committee inspected the land offered by the petitioner as well as respondent no.4 on 18.1.2017 and submitted its report to the Corporation. It is stated in paragraph 13 of the writ petition that the land offered by the respondent no.4 was not appropriate for establishment of Kishan Sewa Kendra as such the application submitted by the respondent no.4 was liable to be rejected. It is further contended that for the location in question only two applicants were found suitable namely petitioner and respondent no.4 and since the land offered by the respondent no.4 was not upto mark it is only the petitioner, who was entitled for consideration of his case for the location in question.

10. A letter dated 7.3.2017 was issued by the respondents Corporation permitting the petitioner to participate in the draw of lot/bidding, which was scheduled to be held on 29.3.2017. The identical information was also given by the Corporation to the respondent no.4. The draw of lots/bidding for the location in question was held on

29.3.2017 in which the respondent no.4 was found to be selected. Large number of allegations were made in the writ petition against the respondent no.4 specially in respect of the land provided by him for the location in question. Raising his grievances a representation was submitted by the petitioner addressed to the respondent no.3/Senior Divisional Retail Sales Manager, Indian Oil Corporation Limited (MD), Varanasi Divisional Office, District Varanasi, on 30.3.2017, copy of which is appended as annexure 7 to the writ petition.

11. It is further argued that inspite of the fact that the aforesaid representation was submitted by the petitioner no orders were passed on the same by the respondent Corporation. Being aggrieved against the selection of respondent no.4 the petitioner has preferred the present writ petition.

12. When the matter was taken up as fresh on 25.4.2017 following order was passed by another Coordinate Bench of this Courts :-

“On the matter being taken up today, Smt. Archana Singh, Advocate, on the basis of instructions in question that have been so received dated 21.04.2017, made a categorical statement before us that till date the Indian Oil Corporation has not received any representation from Shri Nripendra Kumar Dhusia in reference to the subject location.

The record in question reflects that specially the averments that have been mentioned in paragraph 24 of the Writ Petition wherein petitioner has proceeded to make statement to the effect that after it has come to the knowledge of petitioner that large scale illegality, irregularity as well as fraud and concealment has been made by respondent no.4, immediately he has approached respondent no.3 i.e. Senior Divisional Retail Sales Manager, Indian Oil Corporation Limited (MD) Varanasi, Divisional Office

N.H.-31 Babatpur Road, P.O. Harhua, District Varanasi and complaint has been made.

Once before us a categorical stand has been taken that false statement of fact has been mentioned and no such complaint has been received in the office of respondent no.3, in view of this, we take serious note of the matter and we proceed to ask Shri Nripendra Kumar Dhusia as to under what circumstances, he has proceeded to make statement of fact in paragraph 24 of the Writ Petition and at what point of time he has proceeded to send/deliver the said appeal in the office of respondent no.3.

Confronted with this situation, counsel for the petitioner has requested that the matter be taken up on Monday next i.e. .01.05.2017 so that an affidavit can come before us.

Request made is accepted.

List this matter on 01.05.2017 so that counsel for the petitioner is in a position to file an affidavit as has been requested and in case we find that false statement of fact has been made in the matter, action can be taken against petitioner."

13. In response to the same a personal affidavit was filed by the petitioner. In the personal affidavit filed by the petitioner it is stated that the registered complaint submitted by the petitioner was neither returned back nor taken on record by the respondent Corporation. Along-with supplementary affidavit the photo copy of the complaint dated 30.3.2017 was appended as annexure 2. It appears from perusal of the annexure 2 to the personal affidavit that the said complaint was received in the office of the respondent no.3 on 27.4.2017.

14. In paragraph 24 of the writ petition, the following averments were made by the petitioner :-

"That the petitioner after came in knowledge about the illegality, irregularity as well as fraud and concealment playing by respondent no.4

immediately approached before respondent no.3 through written complaint/representation dated 30.03.2017 to the respondent no.3 along with sale deed and Khatauni showing the name of Smt. Soniya co-owner become only after L.E.C. Report.”

15. After the order dated 25.4.2017 passed by Coordinate Bench of this Court in the present writ petition it appears that the aforesaid application was sought to be served by the petitioner in the office of respondent no.3 on 27.4.2017, which is clear from the perusal of annexure 2 to the personal affidavit. Apart from the same a bank draft of Rs.1,000/- which was required to be submitted along-with the complaint dated 27.4.2017 accompanied the same. From perusal of the same, it is clear that no complaint whatsoever has been submitted by the petitioner on 30.3.2017 as stated by him in paragraph 24 of the writ petition.

16. From perusal of the facts as narrated above, it is clear that absolutely wrong averment has been made by the petitioner while filing the present writ petition. In paragraph 24 of the writ petition it is stated by the petitioner that after the petitioner came to know about the fraud and concealment by the respondent-corporation authorities he immediately approached before respondent no.3 through written complaint/representation dated 30.3.2017.

17. The brochure issued by the oil companies namely Indian Oil, Bharat Petroleum and Hindustan Petroleum contain provisions governing the selections of Dealers for Regular & Rural Retail Outlets. Clause 17 of the brochure clause is about the grievance redressal system, the same is quoted hereinbelow :-

"17. GRIEVANCE REDRESSAL SYSTEM

Any complaint should be accompanied by a fee of Rs. 1000/-, only in the form of demand draft of schedule bank, in favour of the Oil Company. Any complaint received without this fee will not be entertained. The complaint received against the selection including eligibility will be disposed off as under:-

(i) Complaints received before or after draw of lots/bidding process along with requisite fee of Rs. 1000/-, will be kept in record and investigation carried out after 30 days of Draw of Lots/bidding process only in following cases:-

. General complaints with verifiable facts

. Complaints against selected candidate

(ii) Any complaint received after 30 days from the date of draw of lots/bidding process will not be entertained.

(iii) Anonymous complaints without verifiable facts will not be investigated.

(iv) On receipt of a complaint, the complainant would be asked to submit details of allegation with a view to prima facie substantiate the allegations along with supporting documents, if any. While seeking documents and details, the complainant will be advised that if during the investigations, complaint is found to be false and/or without substance, the Corporation reserves the right to take action against the complainant as provided under the law and fee forfeited.

(v) In case a complaint is received against an applicant, who has not been selected in draw of lots/bidding process, the same will be kept in abeyance. In case the LOI against selected candidate is cancelled and the applicant against whom the complaint was received gets selected in the next draw or on account of bidding process, the complaint will only then be investigated.

(vi) If the complaint is not required to be investigated the fee received will be refunded to the complainant informing that the complaint has not been investigated since the candidate against whom the complaint has been made has not been selected. The fee will be refunded after issuance of LOA to the selected candidate.

(vii) Corporation will examine response of the complainant and if it is found that the complaint does not have specific and verifiable allegations, the same will be filed and complaint fee will be forfeited.

Version 24 II / 09.10.2014

(viii) If a decision is taken to investigate the complaint,

decision on the complaint will be taken as under and intimated to the complainant:-

a) *Complaints not substantiated:*

In case the complaint is not substantiated it will be filed and complaint fee will be forfeited.

b) *Established Complaints:*

In case of established complaint, suitable action would be taken and complaint fee collected will be refunded."

18. It reveals from perusal of the facts as narrated in the supplementary affidavit filed by the petitioner that no such complaint has been made by the petitioner before the respondent authorities on 30.3.2017. In view of the fact, petitioner has not approached this Court with clean hand hence he is not entitled for any relief as claimed by him in the present writ petition.

19. Law in this connection is well settled that he who seeks equity must do equity, he who comes into equity must come with clean hands.

20. It is settled law that a court of equity refuses relief to a plaintiff whose conduct in regard to the subject-matter of the litigation has been improper.

21. In the case of **Moody v. Cox [(1917) 2 Ch 71 : (1916-17) All ER Rep 548 (CA)]** it was held:

*"When one asks on what principle this is supposed to be based, one receives in answer the maxim that anyone coming to equity must come with clean hands. I think the expression clean hands is used more often in the textbooks than it is in the judgments, though it is occasionally used in the judgments, but I was very much surprised to hear that when a contract, obtained by the giving of a bribe, had been affirmed by the person who had a primary right to affirm it, not being an illegal contract, the courts of equity could be so scrupulous that they would refuse any relief not connected at all with the bribe. I was glad to find that it was not the case, because I think it is quite clear that the passage in *Dering v. Earl of**

Winchelsea [(1787) 1 Cox Eq Cas 318: 2 Bos & P 270], which has been referred to, shows that equity will not apply the principle about clean hands unless the depravity, the dirt in question on the hand, has an immediate and necessary relation to the equity sued for."

22. In the case of **R v.. Kensington Income Tax Commissioners, [(1917) 1 KB 486 : 86 LJ KB 257 : 116 LT 136]**, it was held that :-

"35. It is well settled that a prerogative remedy is not a matter of course. In exercising extraordinary power, therefore, a Writ Court will indeed bear in mind the conduct of the party who is invoking such jurisdiction. If the applicant does not disclose full facts or suppresses relevant materials or is otherwise guilty of misleading the Court, the Court may dismiss the action without adjudicating the matter. The rule has been evolved in larger public interest to deter unscrupulous litigants from abusing the process of Court by deceiving it. The very basis of the writ jurisdiction rests in disclosure of true, complete and correct facts. If the material facts are not candidly stated or are suppressed or are distorted, the very functioning of the writ courts would become impossible."

23. In the case of **Halsbury's Laws of England, 4th Edn., Vol. 16, pp. 874- 76**, the law is stated in the following terms:

"1303. He who seeks equity must do equity.--In granting relief peculiar to its own jurisdiction a court of equity acts upon the rule that he who seeks equity must do equity. By this it is not meant that the court can impose arbitrary conditions upon a plaintiff simply because he stands in that position on the record. The rule means that a man who comes to seek the aid of a court of equity to enforce a claim must be prepared to submit in such proceedings to any directions which the known principles of a court of equity may make it proper to give; he must do justice as to the matters in respect of which the assistance of equity is asked. In a court of law it is otherwise: when the plaintiff is found to be entitled to judgment, the law must take its course; no terms can be imposed."

*** 1305. *He who comes into equity must come with clean hands.--A court of equity refuses relief to a plaintiff whose conduct in regard to the subject-matter of the litigation has been improper. This was formerly expressed by the maxim „he who has committed iniquity shall not have equity“, and relief was refused where a transaction was based on the plaintiff's fraud or misrepresentation, or where the plaintiff sought to enforce a security improperly obtained, or where he claimed a remedy for a breach of trust which he had himself procured and whereby he had obtained money. Later it was said that the plaintiff in equity must come with perfect propriety of conduct, or with clean hands. In application of the principle a person will not be allowed to assert his title to property which he has dealt with so as to defeat his creditors or evade tax, for he may not maintain an action by setting up his own fraudulent design.*

The maxim does not, however, mean that equity strikes at depravity in a general way; the cleanliness required is to be judged in relation to the relief sought, and the conduct complained of must have an immediate and necessary relation to the equity sued for; it must be depravity in a legal as well as in a moral sense. Thus, fraud on the part of a minor deprives him of his right to equitable relief notwithstanding his disability. Where the transaction is itself unlawful it is not necessary to have recourse to this principle. In equity, just as at law, no suit lies in general in respect of an illegal transaction, but this is on the ground of its illegality, not by reason of the plaintiff's demerits."

(See also Snell's Equity, 13th Edn., pp. 30-32 and Jai Narain Parasrampuriah v. Pushpa Devi Saraf [(2006) 7 SCC 756] .)

24. In the case of **Spry on Equitable Remedies, 4th Edn., p. 5**, referring to **Moody v. Cox [(1917) 2 Ch 71 : (1916-17) All ER Rep 548 (CA)]** and **Meyers v. Casey[(1913) 17 CLR 90]** it is stated:

"... that the absence of clean hands is of no account „unless the depravity, the dirt in question on the hand, has an immediate and necessary relation to the equity sued for". When such

exceptions or qualifications are examined it becomes clear that the maxim that predicates a requirement of clean hands cannot properly be regarded as setting out a rule that is either precise or capable of satisfactory operation."

25. Although the aforementioned statement of law was made in connection with a suit for specific performance of contract, the same may have a bearing in determining a case of this nature also.

26. In the said treatise, it was also stated at pp. 170-71:

"In these cases, however, it is necessary that the failure to disclose the matters in question, and the consequent error or misapprehension of the defendant, should be such that performance of his obligations would bring about substantial hardship or unfairness that outweighs matters tending in favour of specific performance. Thus, the failure of the plaintiff to explain a matter of fact, or even, in some circumstances, to correct a misunderstanding of law, may incline the court to take a somewhat altered view of considerations of hardship, and this will be the case, especially where it appears that at the relevant times the plaintiff knew of the ignorance or misapprehension of the defendant but nonetheless did not take steps to provide information or to correct the material error, or a fortiori, where he put the defendant off his guard or hurried him into making a decision without proper enquiry."

27. In the case of **Arunima Baruah Vs. Union of India** reported in **2007 (6) SCC 120** it was held by the Supreme Court that :-

"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."

28. Certain more observations in this regard has been made by the Supreme Court in the case of **Prestige Lights Ltd. V. State Bank of India**, reported in **(2007) 8 SCC 449**, the Hon'ble Supreme Court held in para 35 as under:-

"35. It is well settled that a prerogative remedy is not a matter of course. In exercising extraordinary power, therefore, a writ court will indeed bear in mind the conduct of the party who is invoking such jurisdiction. If the applicant does not disclose full facts or suppresses relevant materials or is otherwise guilty of misleading the court, the court may dismiss the action without adjudicating the matter. The rule has been evolved in larger public interest to deter unscrupulous litigants from abusing the process of court by deceiving it. The very basis of the writ jurisdiction rests in disclosure of true, complete and correct facts. If the material facts are not candidly stated or are suppressed or are distorted, the very functioning of the writ courts would become impossible."

29. In the case of **Udyami Evam Khadi Gramodyog Welfare Sanstha V. State of Uttar Pradesh**, **(2008) 1 SCC 560**, the Hon'ble Supreme Court held as under in para 16:-

"16. A writ remedy is an equitable one. A person approaching a superior court must come with a pair of clean hands. It not only should not suppress any material fact, but also should not take recourse to the legal proceedings over and over again which amounts to abuse of the process of law. In Advocate General, State of Bihar V.

M.P.Khair Industries this Court was of the opinion that such a repeated filing of writ petitions amounts to criminal contempt."

30. Apart from the same, in the case of **Dalip Singh Vs. State of U.P. and others** reported in **(2010) 2 SCC 114**, this Court has given this concept a new dimension which has a far reaching effect. We, therefore, repeat those principles here again:

"For many centuries Indian society cherished two basic values of life i.e. "satya"(truth) and "ahimsa (non-violence), Mahavir, Gautam Budha 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.

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."

31. In the case of **Amar Singh vs. Union of India & Others** reported in **2011(7) SCC 69**, on the aspect of a litigant approaching the court, with unclean hands, at, paragraphs 53 to 57, and at, paragraph 59, which is quoted hereinbelow :-

"53. Courts have, over the centuries, frowned

upon litigants who, with intent to deceive and mislead the courts, initiated proceedings without full disclosure of facts. Courts held that such litigants have come with "unclean hands" and are not entitled to be heard on the merits of their case.

54. In *Dalglish v. Jarvie* {2 Mac. & G. 231,238}, the Court, speaking through Lord Langdale and Rolfe B., laid down:

"It is the duty of a party asking for an injunction to bring under the notice of the Court all facts material to the determination of his right to that injunction; and it is no excuse for him to say that he was not aware of the importance of any fact which he has omitted to bring forward."

55. In *Castelli v. Cook* {1849 (7) Hare, 89,94}, Vice Chancellor Wigram, formulated the same principles as follows:

"A plaintiff applying *ex parte* comes under a contract with the Court that he will state the whole case fully and fairly to the Court. If he fails to do that, and the Court finds, when the other party applies to dissolve the injunction, that any material fact has been suppressed or not properly brought forward, the plaintiff is told that the Court will not decide on the merits, and that, as has broken faith with the Court, the injunction must go."

56. In the case of *Republic of Peru v. Dreyfus Brothers & Company* {55 L.T. 802,803}, Justice Kay reminded us of the same position by holding:

"...If there is an important misstatement, speaking for myself, I have never hesitated, and never shall hesitate until the rule is altered, to discharge the order at once, so as to impress upon all persons who are suitors in this Court the importance of dealing in good faith with the Court when *ex parte* applications are made."

57. In one of the most celebrated cases upholding this principle, in the Court of Appeal in *R. V. Kensington Income Tax Commissioner* {1917 (1) K.B. 486} Lord Justice Scrutton formulated as under:

"and it has been for many years the rule of the Court, and one which it is of the greatest importance to maintain, that when an applicant comes to the Court to obtain relief on an *ex parte* statement he should make a full and fair disclosure of all the material facts- facts, now

law. He must not misstate the law if he can help it - the court is supposed to know the law. But it knows nothing about the facts, and the applicant must state fully and fairly the facts, and the penalty by which the Court enforces that obligation is that if it finds out that the facts have 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."

59. The aforesaid requirement of coming to Court with clean hands has been repeatedly reiterated by this Court in a large number of cases. Some of which may be noted, they are: Hari Narain v. Badri Das- AIR 1963 SC 1558, Welcome Hotel and others v. State of A.P. and others - (1983) 4 SCC 575, G. Narayanaswamy Reddy (Dead) by LRs. And another v. Government of Karnataka and another - JT 1991(3) SC 12: (1991) 3 SCC 261, S.P. Chengalvaraya Naidu (Dead) by LRs. v. Jagannath (Dead) by LRs. and others - JT 1993 (6) SC 331: (1994) 1 SCC 1, A.V.

Papayya Sastry and others v. Government of A.P. and others - JT 2007 (4) SC 186: (2007) 4 SCC 221, Prestige Lights Limited v. SBI - JT 2007(10) SC 218: (2007) 8 SCC 449, Sunil Poddar and others v. Union Bank of India - JT 2008(1) SC 308: (2008) 2 SCC 326, K.D.Sharma v. SAIL and others - JT 2008 (8) SC 57: (2008) 12 SCC 481, G. Jayashree and others v. Bhagwandas S. Patel and others - JT 2009(2) SC 71 : (2009) 3 SCC 141, Dalip Singh v. State of U.P. and others - JT 2009 (15) SC 201: (2010) 2 SCC 114."

32. In the case of ***Kishore Samrite vs. State of U.P. & Others*** reported in **2013(2) SCC 398**, at paragraphs 32 to 36, the Hon'ble Supreme Court held as follows:

"32. With the passage of time, it has been realised that people used to feel proud to tell the truth in the Courts, irrespective of the consequences but that practice no longer proves true, in all cases. The Court does not sit simply as an umpire in a contest between two parties and declare at the end of the combat as to who has won and who has lost but it has a legal duty of its own, independent of parties, to take active role in the proceedings and reach at the truth, which is the foundation of administration of justice. Therefore, the truth should become the ideal to inspire the courts to pursue. This can be achieved by statutorily mandating the Courts to become active seekers of truth. To enable

the courts to ward off unjustified interference in their working, those who indulge in immoral acts like perjury, prevarication and motivated falsehood, must be appropriately dealt with. The parties must state forthwith sufficient factual details to the extent that it reduces the ability to put forward false and exaggerated claims and a litigant must approach the Court with clean hands. It is the bounden duty of the Court to ensure that dishonesty and any attempt to surpass the legal process must be effectively curbed and the Court must ensure that there is no wrongful, unauthorised or unjust gain to anyone as a result of abuse of the process of the Court. One way to curb this tendency is to impose realistic or punitive costs.

33. The party not approaching the Court with clean hands would be liable to be non-suited and such party, who has also succeeded in polluting the stream of justice by making patently false statements, cannot claim relief, especially under Article 136 of the Constitution. While approaching the court, a litigant must state correct facts and come with clean hands. Where such statement of facts is based on some information, the source of such information must also be disclosed. Totally misconceived petition amounts to abuse of the process of the court and such a litigant is not required to be dealt with lightly, as a petition containing misleading and inaccurate statement, if filed, to achieve an ulterior purpose amounts to abuse of the process of the court. A litigant is bound to make full and true disclosure of facts. (Refer : Tilokchand H.B. Motichand & Ors. v. Munshi & Anr. [1969 (1) SCC 110]; A. Shanmugam v. Ariya Kshatriya Rajakula Vamsathu Madalaya Nandhavana Paripalanai Sangam & Anr. [(2012) 6 SCC 430]; Chandra Shashi v. Anil Kumar Verma [(1995) SCC 1 421]; Abhyudya Sanstha v. Union of India & Ors. [(2011) 6 SCC 145]; State of Madhya Pradesh v. Narmada Bachao Andolan & Anr. [(2011) 7 SCC 639]; Kalyaneshwari v. Union of India & Anr. [(2011) 3 SCC 287]).

*34. The person seeking equity must do equity. It is not just the clean hands, but also clean mind, clean heart and clean objective that are the equi-fundamentals of judicious litigation. The legal maxim *jure naturae aequum est neminem cum alterius detrimento et injuria fieri locupletiolem*, which means that it is a law of nature that one should not be enriched by the loss or injury to another, is the percept for Courts. Wide jurisdiction*

of the court should not become a source of abuse of the process of law by the disgruntled litigant. Careful exercise is also necessary to ensure that the litigation is genuine, not motivated by extraneous considerations and imposes an obligation upon the litigant to disclose the true facts and approach the court with clean hands.

35. No litigant can play hide and seek with the courts or adopt pick and choose. True facts ought to be disclosed as the Court knows law, but not facts. One, 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 impermissible to a litigant or even as a technique of advocacy. In such cases, the Court is duty bound to discharge rule nisi and such applicant is required to be dealt with for contempt of court for abusing the process of the court. {K.D. Sharma v. Steel Authority of India Ltd. & Ors. [(2008) 12 SCC 481]."

33. From perusal of the facts as narrated in the writ petition specially in paragraph 24 of the writ petition in which the petitioner has stated that he has already made a representation before the respondents authorities but from perusal of the supplementary affidavit filed by him it is clear that no representation was made by the petitioner till the time of the filing of the writ petition. Statutory representation was submitted by him for the first time on 27.4.2017, copy of which is appended as annexure no.2 to the personal affidavit, which was submitted by him within the statutory period of 30 days but since wrong facts have been stated by the petitioner in the writ petition he is not entitled for any relief specially under Article 226 of the Constitution of India.

34. The High Court is exercising discretionary and extraordinary jurisdiction under Article 226 of the Constitution. Over and above, a Court of Law is also a Court of Equity. It is, therefore, of utmost necessity that when a party approaches a High Court, he must place all

the facts before the Court without any reservation. If there is suppression of material facts on the part of the petitioner or twisted facts have been placed before the Court, the Writ Court may refuse to entertain the petition and dismiss it without entering into merits of the matter.

35. Accordingly, we are of the opinion that the present writ petition is devoid of merit and the same is liable to be dismissed.

36. In view of the same, present writ petition is dismissed with cost.

Order Date :- 12.9.2019
Pramod Tripathi