

(2018) 08 KAR CK 0024

In the Karnataka High Court

Case No : Writ Petition No.35510-35513 of 2018

Pushpa B. R. and Ors @APPELLANT@Hash State of Karnataka and Ors

Date of Decision : 21-08-2018

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2018) 08 KAR CK 0024

Hon'ble Judges : B. Veerappa, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

1. This is a classic case of fraud, greed and misuse of judicial process by filing frivolous writ petitions by the petitioners seeking for issue of a writ of mandamus directing the respondent Nos.2 and 3 to include their names in the voters list pertaining to ward No.21 of Chalakere Town and permit them to vote, contest and participate in the elections that is scheduled to be held on 01.09.2018 to the respondent No.6/Chalakere City Municipal Council.

I. FACTS OF THE CASE:

2. It is the case of the petitioners that they are all residents of No.342, Shivanagar, Chalakere, Chitradurga District. The first petitioner is the wife of the second petitioner and petitioner Nos.3 and 4 are the son and daughter of petitioner Nos.1 and 2. Petitioners were earlier residents of Nagaramgere village, Chalakere Taluk. Now they have shifted their residence to Chalakere Town. The copies of the votersâ?? identity card when the petitioners were residing at Nagaramgere are produced as per Annexures-A, A1, A2 and A3. After the petitioners shifted to Chalakere, they have been staying in Chalakere. The copy of the rent agreement dated 01.08.2017 and continuation of rent agreement dated 18.06.2018 are produced as per Annexures-

B and B1. The petitioners also obtained residential/domicile certificates as per Annexures-C, C1, C2 and C3. Thereafter, petitioners shifted to the

present address and they were issued with votersâ?? identity cards issued by the Election Commission of India as per Annexures-D, D1, D2 and D3.

It is the further case of the petitioners that the their names have been included in the votersâ?? list and their names have been reflected in the

website and copies of the same are produced as per Annexures-E, E1, E2 and E3. The first respondent has issued calendar of events for the elections

to the respondent No.6/CMC on 02.08.2018, as per Annexure-F. As per the calendar of events, the last date for filing of nomination is fixed as

17.08.2018 and the date of election is fixed as 01.09.2018. The area in which the petitioners are residing falls under ward No.21. The said ward is

reserved for General Women category. The petitioner No.1 is also an aspirant to contest the election.

3. It is the further case of the petitioners that when the petitioners obtained entire copy of the votersâ?? list of ward No.21, they were surprised to

see that their names had not been included in the votersâ?? list. The copy of the votersâ?? list in part Nos.28 and 29 is produced as per Annexures-

H and H1. It is contended by the petitioners that their names are deliberately not included in the official votersâ?? list for political reasons. The

petitioner No.1 has a bright chance of winning the election. Therefore, some of the political leaders did not wanted the petitioner No.1 to contest the

elections. Therefore, petitioners are before this Court for the relief sought for.

II. THE PROCEEDINGS OF THIS COURT:

4. When the matter came up for admission on 14.08.2018, this Court, while issuing notice to the respondents, directed the learned Government

Advocate to get instructions from the concerned authority as to why the names of the petitioners are not included in the votersâ?? list of ward

No.21. Accordingly, the matter was adjourned to 16.08.2018. On that day, Smt.Prathima Honnapur, learned Addl. Government Advocate produced

the original records and pointed out that Annexure-B1 produced by the petitioners is a non-judicial e-stamp paper issued on 18.06.2018 at 3.25 pm on

which the continuation of lease agreement is executed between the second petitioner and the owner of the land bearing khatha No.2608/2469/5911/19

measuring 19 x 12 mtrs with a vacant building measuring 1662 sq.ft. The

learned Government Advocate also produced the records of Annexure-B and submitted that the year of issue is 2018 and it is tampered as 2017. Therefore, this Court recorded a finding that, if the very stamp paper is purchased on 18.06.2018, it is not forthcoming as to how the lease agreement can be executed on 01.08.2017. The learned Government Advocate also pointed out that the member of CMC, Chalakere has issued residential certificates as per Annexures-C, C1, C2 and C3 dated 14.07.2018. Therefore, this Court directed the learned Government Advocate to get instructions from the concerned Chief Officer as to whether Annexure-C series are issued by the said authority. The Court opined that prima-facie, the petitioners have not come to the Court with clean hands, by suppressing the material facts and have filed writ petitions at the fag end of the day only with a view to contest the elections. That is how the matter is being posted time and again. When the matter was posted on 20.08.2018, Sri Rakesh Bhat, learned counsel undertook to file power for respondent No.6. The Commissioner, CMC, Chalakere, was present before Court and the matter was adjourned to 21.08.2018.

III. STATEMENT OF OBJECTIONS BY THE STATE:

5. Today, learned Addl. Government Advocate filed statement of objections on behalf of respondent Nos.1 to 5 and specifically stated that the petitioners have not come to the Court with clean hands and have suppressed the material facts and therefore, the writ petitions are liable to be dismissed. It is further stated that the petitioners filed an application for change of votersâ?? identity cards in Form No.6 on 26.06.2018 and the concerned booth level officer, looking to the documents annexed along with the application i.e., the lease deed dated 01.08.2017, recommended for inclusion of the petitionersâ?? names in the votersâ?? list of ward No.21 of Chalakere town. The copies of the petitionersâ?? applications are produced as per Annexures-R1 to R4. The copy of the lease deed dated 01.08.2017 on the e-stamp paper issued on 18.06.2017 at 3.25 pm is also furnished along with application. The same was marked as per Annexure-R5. The copies of earlier election identity cards along with Aadhar cards are produced as per Annexures-R5 to R20. Based on the said records, the names of the petitioners were transferred to the votersâ?? list of ward No.21, Chalakere town on 21.07.2018. The names updated in the votersâ?? list

in ward No.21 is produced as per Annexure-R21. It is further contended that the fourth respondent while verifying the records noticed that the lease deed produced by the petitioners at Annexure-R5 bears over writing/tampering of the date of issue of the e-stamp as 18.06.2017. Therefore, the fourth respondent wrote to the booth level officer to give a report as to how the date of issue of e-stamp paper has been tampered/over written. The booth level officer, on the direction of the fourth respondent, enquired into the same and called upon the petitioners to produce the original of the said lease deed (Annexure-R5). The booth level officer, noticing the discrepancy in the date, submitted the same to the 4th respondent and also reported that the petitioners are not residing in the address as mentioned. The note was put up to the fourth respondent on 06.08.2018. Based on the said report, the Tahsildar/4th respondent, rejected the application and initiated action for removal of the names of the petitioners from votersâ?? list of ward No.21.

6. It is further stated that the petitioners are not the residents of ward No.21 of Chalakere Town. The documents produced along with the application, like earlier election identity card and the Aadhar card depicts that they are residents of Nagaramgere village, Chalakere Taluk. The petitioners have not produced any domicile certificate/residential certificate to the Tahsildarâ??s office. The documents at Annexures- C, C1 to C3 were not submitted to the Tahsildarâ??s office for the purpose of issuance of new voterâ??s identity cards. The said documents are produced for the first time before this Court along with writ petitions. It is also submitted that the member-Parimala of Chalakere Town Municipal is not authorized to issue such certificate. The authority under law is the Tahsildar, Revenue of the concerned area to issue any residential certificate which would be issued by the Atalji Jana Snehi Kendra where such certificate would be issued. The list of certificates which would be issued by the said centre are produced as per Annexures-R22 and R23.

7. It is further contended that the petitioners have approached this Court without disclosing the actual facts. The petitionersâ?? names were included in the votersâ?? list of ward No.21 of Chalakere town. The petitioners have approached this Court after having learnt that the authorities have come to know about the tampering of records i.e., lease deed, and initiated action for

removal of the petitioners' names from the voters' list of ward

No.21. The intention of the petitioners is only to participate in the municipal election even though they are not residents of the said ward/ locality. The

last date for withdrawal of nomination is 23.08.2018 at 3.00 pm and the first petitioner has filed his nomination based on the voters' list. The

election is scheduled to be held on 01.09.2018 and therefore, respondents sought to dismiss the writ petitions.

IV. AFFIDAVIT OF COUNCILOR (6TH RESPONDENT/ MUNICIPALITY)

8. In response to the notice issued by this Court, Sri Rakesh Bhat, learned counsel for respondent No.6 has filed the affidavit of Smt.Parimala, W/o of

K. Shivkumar, Councillor of City Municipal Council, Chalakere, Ward No.19, who is alleged to have issued Annexures-C, C1, C2 and C3, the

residential certificates. Though Smt. Parimala is not made party in these petitions, to assist the Court she has appeared before the Court along with the

Tahsildar and Municipal Commissioner. The affidavit filed by Smt.Parimala dated 21.08.2018, reads as under:

1. I am the councilor of City Municipal Council, Chalakere, Ward No.19, elected during the year 2013.

2. I submit that, I was informed by the 6th respondent, Municipal Commissioner, City Municipal Council, Chalakere that certain documents have been

produced by the petitioners at Annexure C to C3 to the petition, allegedly issued by me and this Hon'ble Court has directed to me to file affidavit

regarding the authenticity of the document.

3. I submit that I have seen the documents produced by the petitioners at Annexure C, C1, C2 and C3 and state that these documents have not been

issued by me. The alleged signatures on these Annexure are not my signatures.

V. ARGUMENTS ADVANCED BY THE LEARNED COUNSEL FOR THE PARTIES:

9. I have heard the learned counsel for the parties to the lis.

10. Sri Devi Prasad Shetty, learned counsel for the petitioners contended that the non inclusion of the petitioners' names in the voters' list of

ward No.21, Chalakere, is illegal and arbitrary. None of the petitioners have been issued with any notice before deleting their names from the

voters' list. After shifting to Chalakere town, the petitioners have been staying in Chalakere and also they have obtained residential certificates.

The voters' identity cards are issued by the Election Commission of India. Therefore, the impugned action of the respondents in not including the petitioners' names in the voters' list cannot be sustained. He further contended that the councilor who issued Annexures-C, C1, C2 and C3 is also contesting the elections against the first petitioner from the very same ward and the non inclusion of petitioners' names in the voters' list is politically motivated and therefore, sought to allow the writ petitions.

11. Per contra, Smt. Prathima Honnapur, learned Addl. Government Advocate for respondent Nos.1 to 5 and Sri Rakesh Bhat, learned counsel for respondent No.6 submitted that the petitioners have deliberately tampered the documents/Annexures produced along with the writ petitions only with an intention to contest the elections from ward No.21 of Chalakere even though they are residents of Nagaramgere village and therefore, they are not entitled to any relief and sought to dismiss the writ petitions.

VI. CONSIDERATION:

12. I have given my anxious consideration to the arguments advance by the learned counsel for the parties and perused the entire material on record carefully, including the original stamp paper dated 18.06.2018 and the earlier lease deed dated 01.08.2017, produced by the learned Addl. Government Advocate and the learned counsel for the petitioner in the open Court.

13. When this Court was verifying the documents, learned Addl. Government Advocate pointed out that Annexure-B1 is the continuation of earlier lease agreement dated 01.08.2017, whereas, Annexure-B is the first lease agreement dated 01.08.2017 said to have been executed by one G.G.

Sharada, W/o Venkatesha Murthy, in respect of RCC house, Chalakere Town, Shivanagara, for a monthly rent of ` 15,000/-, without mentioning the

identity of the property. Annexure-B is printed on a plain white paper. It is not executed on a non-judicial stamp paper. The continuation of lease

agreement is printed on e-stamp paper produced by the learned counsel for the petitioner as per Annexure-B1 and it clearly depicts the date of

purchase of the stamp paper as 18.06.2018 at 3.25 pm. The heading of the said document reads as under:

ಶ್ರೀಮತಿ ಶರದಾ ಮುರ್ತ್ಯು ವಸತಿಗಾಗಿ ರಾಜ್ಯ ಸರ್ಕಾರದಿಂದ
 ಪಡೆದ 18.06.2018 ರ ದಿನದಿಂದ 3.25 pm ರವರೆಗೆ
 ಪಡೆದ 18.06.2018 ರ ದಿನದಿಂದ 3.25 pm ರವರೆಗೆ
 ಪಡೆದ 18.06.2018 ರ ದಿನದಿಂದ 3.25 pm ರವರೆಗೆ

ಶ್ರೀಮತಿ ಶರದಾ ಮುರ್ತ್ಯು ವಸತಿಗಾಗಿ ರಾಜ್ಯ ಸರ್ಕಾರದಿಂದ
 ಪಡೆದ 18.06.2018 ರ ದಿನದಿಂದ 3.25 pm ರವರೆಗೆ
 ಪಡೆದ 18.06.2018 ರ ದಿನದಿಂದ 3.25 pm ರವರೆಗೆ
 ಪಡೆದ 18.06.2018 ರ ದಿನದಿಂದ 3.25 pm ರವರೆಗೆ

Â¢Â£ÄÄPÄ? MAzÄ?gÄ?Â®Ä?Ä" (Â¢: 1/8/2017)

ÄªÄ?iÄ?rzÄ? PÄ?gÄ?jÄ£Ä? ÄªÄ?Ä?Ä?AzÄ?Ä?ÄªÄ?gÄ?zÄ? Ä"Ä?rUÄ? PÄ?gÄ?gÄ?Ä?
Ä¥Ä?vÄ?Ä! .â?? i.e.,

â??RENT AGREEMENT OF THE RESIDENTIAL HOUSE

The continuation of rent agreement executed on the First day of August Two Thousand and Seventeen (Dt:01.08.2017).â??

14. The learned Government Advocate has also produced copy of the lease agreement as per Annexure-R6. In the said document, the date of issue

of the stamp paper is tampered to read as 18.06.2017 and the heading reads as under:

â??ÄªÄÄ, Ä?zÄ? ÄªÄ?Ä?Ä£Ä?AiÄ?Ä? Ä"ÄrUÄ?AiÄ?Ä? PÄ?gÄgÄ?Ä? Ä¥Ä?vÄ?Ä! Ä, Ä?
Ä£Ä" JgÄ?qÄ?Ä? Ä, ÄÄ«gÄ?zÄ?

ÄªÄ?Ä¢Ä£Ä?Ä?Ä¼Ä?Ä£Ä?Ä? EÄ, Ä?Ä«AiÄ?Ä? DUÄ?Ä, Ä?Ä- ÄªÄ?iÄ?ÄªÄ? Ä¢Ä£Ä?
APÄ? MAzÄ?gÄ?Â®Ä?Ä" (Â¢: 1/8/2017)â?? i.e.,

â??RENT AGREEMENT OF THE RESIDENTIAL HOUSE

On this the First day of August Two Thousand and Seventeen (Dt:01.08.2017)â??

15. This would clearly depict that the stamp paper produced before the authorities concerned for the purpose of inclusion of names of the petitioners in

the votersâ?? list does not depict that the purpose of executing the agreement is for continuation of the lease agreement dated 01.08.2017. The

document produced by the petitioners before the authorities as per Annexure-R6, the document produced by the petitioners before this Court as per

Annexure-B1 and the original document produced by the learned counsel for the petitioners in the open Court are entirely different(returned to the

petitionersâ?? counsel). The date of issuance of the e-stamp paper as per Annexure-B1 is 18.06.2018. Annexure-R6 produced by the learned Addl.

Government Advocate depicts the date of issue of e-stamp paper as 18.06.2017 at 3.25 pm and the date of execution is 01.08.2017. The first lease

agreement produced by the petitioner as per Annexure-B is printed on a plain white paper, as already stated supra. But, Annexure-R6 produced by

the learned Addl. Government Advocate depicts that the first lease agreement is executed on a e-stamp paper on which the date of issue is tampered.

16. The agreement dated 01.08.2017, Annexure-B does not disclose the residential address of the petitioners nor the description of the property. The

continuation of lease agreement as per Annexure-B1 dated 18.06.2018 depicts

the identity of the property as RCC house belonging to B.G.Sharada, W/o B.C.Venkatesh Murthy and G.S.Rashmi, W/o B.C. Sathish Kumar, bearing Khatha No.2608/2501/ 2469/5911/19 measuring 19 x 12 mtrs, situated at Sree Shivanagara, III Division, Near Mahathma Gandhi School, Chalakere Town. Whereas, the averments made in paragraph 1 of the writ petition, it is stated that the petitioners are residents of No.342, Shivanagara, Chalakere, Chitradurga District. It is well settled in law that a domicile is the status or attribution of being a lawful permanent resident in a particular jurisdiction. A resident can usually cast his or her ballot in local municipal, State and National elections. Admittedly, in the present case the petitioners have not produced any proof of residence at Chalakere town as claimed in the petitions viz.,

- (1) Recent utility bills;
 - (a) LPG bills,
 - (b) Water bills,
 - (c) Electricity bills,
 - (d) Landline phone bills,
 - (e) Cable/TV connection bills,
- Â (2) Driving Licence;
- (3) Votersâ?? card;
- (4) Registered lease deed with rent receipt;
- (5) Passport;
- (6) Bank Statement;
- (7) Tax Assessment;
- (8) PAN card;
- (9) Aadhar Card; etc.

17. The Annexures-D, D1, D2 and D3, the votersâ?? identity cards issued by the Election Commission of India on 31.07.2018, are on the basis of the documents produced by the petitioners as per Annexures-B, B1, C, C1, C2 and C3. The authorities have also blindly issued the identity cards without verifying the correct and proper proof of residential address of the petitioners. These facts and circumstances clearly depict that the petitioners have

not come to the Court with clean hands and have suppressed the material facts. It is also not in dispute that as per Annexure-G dated 30.07.2018, the

State Government issued notification of the reservation of wards pertaining to Chalakere Town, and ward No.21 is reserved for General Women. The

calendar of events is issued by the State Election Commission on 02.08.2018 and the writ petitions are filed on 13.08.2018 which clearly depicts that

the petitioners approached the Court at the fag end of the day. Therefore, the petitioners are not entitled to any relief under writ jurisdiction on the

basis of the created documents only for the purpose of elections to the Municipality. It is well settled that every citizen should exercise their franchise

if they are residents of that particular area/town. Admittedly, the petitioners are originally residents of Nagaramgere. If anybody wants to contest to

the elections of the Municipal Council, they should be residents of the concerned area/ward. The documents produced by the petitioners seem to be

created, concocted and tampered one, only with an intention to see that the petitioner No.1 shall contest the election. The owner of the house in which

the petitioners are allegedly residing has not filed any affidavit before this Court stating that the petitioners are residing in the house rented out by such

owner.

18. The petitioners have not produced any material documents to establish their residential proof in the address furnished along with the writ petitions

with verifying affidavit. This clearly indicates that the petitioners have not come to the Court with clean hands. It is expected that every citizen, who

approach the Court seeking justice should be fair to the Court. When they are not fair, it amounts to abuse of process of Court and contempt of Court.

It is well settled that 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 petitioners have unnecessarily dragged the Tahsildar, Municipal Commissioner and the Councilor

before this Court, wasting their public time.

The conduct and attitude of the petitioners in manner to cause colossal insult to justice and are against the majesty of law which cannot be encouraged

in order to see that democratic values enshrined in the Constitution are respected and faith of people in the judicial institutional system is not lost.

19. The certificates produced as per Annexures-C, C1, C2 and C3 on a printed

form alleged to have been issued by Smt.Parimala, Councillor of City Municipal Council, ward No.19, Chalakere, are issued on 14. 07.2018, certifying that the petitioners are residents of Chalakere taluk, Chitradurga District, Karnataka State, since one year six months. The certificates does not disclose the residential proof (address) of the petitioners. Though the petitioners produced Annexures-C, C1, C2 and C3, the residential certificates and stated that they were issued by the Councilor of CMC, Chalakere, when the concerned Councilor-Smt. Parimala was summoned, she appeared before the Court and also filed an affidavit on oath stating that she has not issued Annexures-C, C1, C2 and C3. She stated that the signature found on the said annexures is not her signatures. In the open Court, this Court also took the signatures of said Parimala on a white paper and compared it with the signatures found on the annexures and also a ledger brought by the authorities which contained the signature of Smt. Parimala. The said comparison clearly depicted that the signatures found on Annexures-C, C1, C2 and C3 are not that of Smt. Parimala. The style in which Smt.Parimala writes the letter 'i' is entirely different from the one found on the annexure C series. This clearly indicates that the petitioners have created and tampered the documents only with an intention to contest the elections in ward No.21, Chalakere City Municipal Council, scheduled to be held on 01.09.2018, only for the personal gain at the cost of the genuine voters of ward No.21 of Chalakere Town, which is impermissible in law.

20. No doubt, the persons who approach the Court are entitled to get justice, but persons who approach the Court with dubious methods cannot be encouraged and such litigants should be handled with iron hand. Otherwise, the majesty of the Court will be misused by such litigants. Apart from doing all the mischief stated supra, the petitioner No.2 has also sworn to an affidavit on oath that the averments made in the writ petition are true and correct to the best of his knowledge, belief and information and that Annexures A to H1 are all true copies of the originals. The second petitioner has made false statements on oath. Such kind of litigants should not be encouraged. If this kind of litigants are allowed to contest the elections, doubt arises as to what kind of service they will do to the Society and to the Nation. If such persons are allowed to lead the Panchayaths, the very purpose of introducing local body elections under the Constitution will be defeated. That is

not the intention of our forefathers who framed the Constitution. In view of the above, the petitioner No.1 is not entitled to contest the elections.

21. After careful perusal of the entire material on record, the original lease deed, statement of objections and the affidavits filed by the learned counsel for the parties, though this Court inclined to refer the matter to CID to hold an enquiry against the petitioners, desist from doing so taking into consideration the career of petitioner Nos.3 and 4, the young children of petitioner Nos.1 and 2, who seem to be prosecuting their studies. For the mistake committed by the second petitioner who filed his affidavit on oath, his innocent wife and children should not suffer. The concerned authority has rightly taken the action to reject the nomination of the petitioner No.1 and the same is in accordance with law.

My view with regard to abuse of process is fortified by the Honâ??ble Supreme Court in the case of KISHORE SAMRITE vs. STATE OF

UTTAR PRADESH AND OTHERS reported in (2013)2 SCC 398 wherein the Honâ??ble Supreme Court held at paragraphs 31, 32, 32.1 to 32.8

and 33 to 40 as under:

Abuse of the process of Court :

31. Now, we shall deal with the question whether both or any of the petitioners in Civil Writ Petition Nos. 111/2011 and 125/2011 are guilty of

suppression of material facts, not approaching the Court with clean hands, and thereby abusing the process of the Court. Before we dwell upon the

facts and circumstances of the case in hand, let us refer to some case law which would help us in dealing with the present situation with greater precision.

32. The cases of abuse of process of court and such allied matters have been arising before the Courts consistently. This Court has had many

occasions where it dealt with the cases of this kind and it has clearly stated the principles that would govern the obligations of a litigant while

approaching the court for redressal of any grievance and the consequences of abuse of process of court. We may recapitulate and state some of the

principles. It is difficult to state such principles exhaustively and with such accuracy that would uniformly apply to a variety of cases. These are:

32.1 Courts have, over the centuries, frowned upon litigants who, with intent to deceive and mislead the Courts, initiated proceedings without full

disclosure of facts and came to the courts with â??unclean handsâ??. Courts have held that such litigants are neither entitled to be heard on the merits of the case nor entitled to any relief.

32.2 The people, who approach the Court for relief on an ex parte statement, are under a contract with the court that they would state the whole case fully and fairly to the court and where the litigant has broken such faith, the discretion of the court cannot be exercised in favour of such a litigant.

32.3 The obligation to approach the Court with clean hands is an absolute obligation and has repeatedly been reiterated by this Court.

32.4 Quests for personal gains have become so intense that those involved in litigation do not hesitate to take shelter of falsehood and misrepresent and suppress facts in the court proceedings. Materialism, opportunism and malicious intent have over-shadowed the old ethos of litigative values for small gains.

32.5 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.

32.6 The Court must ensure that its process is not abused and in order to prevent abuse of process the court, it would be justified even in insisting on furnishing of security and in cases of serious abuse, the Court would be duty bound to impose heavy costs.

32.7 Wherever a public interest is invoked, the Court must examine the petition carefully to ensure that there is genuine public interest involved. The stream of justice should not be allowed to be polluted by unscrupulous litigants.

32.8 The Court, especially the Supreme Court, has to maintain strictest vigilance over the abuse of process of court and ordinarily meddlesome bystanders should not be granted â??visaâ??. Many societal pollutants create new problems of unredressed grievances and the Court should endure to

take cases where the justice of the lis well-justifies it. [Refer : Dalip Singh v. State of U.P. (2010) 2 SCC 114; Amar Singh v. Union of India (2011) 7

SCC 69 and State of Uttaranchal v Balwant Singh Chaufal (2010) 3 SCC 402].

33. Access jurisprudence requires Courts to deal with the legitimate litigation whatever be its form but decline to exercise jurisdiction, if such litigation

is an abuse of process of the Court. In P.S.R. Sadhanantham v. Arunachalam (1980) 3 SCC 141, the Court held:

15. The crucial significance of access jurisprudence has been best expressed by Cappelletti:

The right of effective access to justice has emerged with the new social rights. Indeed, it is of paramount importance among these new rights

since, clearly, the enjoyment of traditional as well as new social rights presupposes mechanisms for their effective protection. Such protection,

moreover, is best assured by a workable remedy within the framework of the judicial system. Effective access to justice can thus be seen as the most

basic requirement the most basic human-right of a system which purports to guarantee legal rights.

16. We are thus satisfied that the bogey of busybodies blackmailing adversaries through frivolous invocation of Article 136 is chimerical. Access to

justice to every bona fide seeker is a democratic dimension of remedial jurisprudence even as public interest litigation, class action, pro bono

proceedings, are. We cannot dwell in the home of processual obsolescence when our Constitution highlights social justice as a goal. We hold that there

is no merit in the contentions of the writ petitioner and dismiss the petition.

34. It has been consistently stated by this Court that the entire journey of a Judge is to discern the truth from the pleadings, documents and arguments

of the parties, as truth is the basis of the Justice Delivery System.

35. 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 process of the Court. One way to curb this tendency is to impose realistic or punitive costs.

36. 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 an abuse of process of 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 an abuse of process of

court. A litigant is bound to make "full and true disclosure of facts". (Refer : Tilokchand H.B. Motichand & v. Munshi [1969 (1) SCC 110]; A.

Shanmugam v. Ariya Kshatriya Rajakula Vamsathu Madalaya Nandhavana Paripalanai Sangam [(2012) 6 SCC 430]; Chandra Shashi v. Anil Kumar

Verma [(1995)1 SCC 421]; Abhyudya Sanstha v. Union of India [(2011) 6 SCC 145]; State of Madhya Pradesh v. Narmada Bachao Andolan [(2011)

7 SCC 639]; Kalyaneshwari v. Union of India [(2011) 3 SCC 287]).

37. 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 locupletiores*, 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 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.

38. 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 court. {K.D. Sharma v. SAIL [(2008) 12 SCC 481].

39. Another settled canon of administration of justice is that no litigant should be permitted to misuse the judicial process by filing frivolous petitions.

No litigant has a right to unlimited drought upon the court time and public money in order to get his affairs settled in the manner as he wishes. Easy access to justice should not be used as a licence to file misconceived and frivolous petitions. (Buddhi Kota Subbarao v. K. Parasaran, (1996) 5 SCC 530).

40. In light of these settled principles, if we examine the facts of the present case, next friends in both the petitions are guilty of suppressing material facts, approaching the court with unclean hands, filing petitions with ulterior motive and finally for abusing the process of court.

22. In view of the peculiar facts and circumstances of the present case, it is appropriate to direct the Deputy Commissioner, Chitradurga, to hold an

enquiry in respect of the documents created by the petitioners, i.e., Annexures A to D3, at the instance of the second petitioner, along with concerned

officials and initiate appropriate criminal action against the second petitioner and other authorities concerned, in accordance with law.

23. Before parting this case, it is the duty of this Court to recognize the sincere efforts made by the learned Government Advocate Smt. Prathima

Honnapur, to prevail the truth and majesty of law. Her honest service to the State is appreciated and the same is placed on record.

VII. CONCLUSION:

24. In view of the aforesaid reasons, petitioners have not made out judicially enforceable right as well as the legally protected right for issue of writ of

mandamus as prayed for under Articles 226 and 227 of the Constitution of India. This Court should impose realistic and punitive cost to curb the

tendency and it would be proper to dismiss the writ petitions by imposing costs of ` 50,000/- (Rupees fifty thousand only) payable by the petitioner No.2

who filed verifying affidavit to the writ petitions on oath and for consuming the

public time, for abusing the process of Court, for unnecessarily

harassing the Officers of the Government, for pressurizing the Court and the Government Advocate. The cost of ` 50,000/- (Rupees fifty thousand

only) is payable to the to the Chief Minister's Relief Fund Natural Calamity, 2018, State Bank of India, A/c No.37887098605, IFS

Code:SBIN0040277, MICR: 560002419, Vidhanasoudha Branch, Bengaluru, within a period of four weeks from the date of receipt of certified copy

of this order, failing which, the Registrar General of this Court is directed to recover the same, in accordance with law.

25. The Registry is directed to send copy of this order to the learned Deputy Commissioner, Chitradurga District, forthwith, for necessary action as

stated supra.

Ordered accordingly.