

HIGH COURT OF TRIPURA
AGARTALA
REVIEW PETITION NO. 19 OF 2023

1. Tripura Jute Mills Limited,

Represented by the Chairman cum Managing Director,
Office at Hapania, P.O. ONGC, Agartala,
West Tripura, Pin-799014.

2. The Chairman cum Managing Director,

Tripura Jute Mills Limited, Hapania, P.O. ONGC Agartala,
P.S. Amtali, District-West Tripura, Pin-799014.

----Petitioners.

Vrs.

Shri Bhanu Lodh,

S/o Sachiram Lodh, R/o. Type-III/B/09, PWD Quarter Complex,
Gandhighat, P.S. West Agartala, West Tripura-799001.

----Respondent.

Present:

For the petitioners : Mr. D. Bhattacharya, Sr. Advocate.
Mr. P. Gautam, Advocate.
Mr. S. Saha, Advocate.

For the respondent : Mr. S.K. Deb, Sr. Advocate.
Mr. S. Lodh, Advocate.
Ms. R. Purkayastha, Advocate.

Date of hearing : 25.08.2023

Date of delivery of
Judgment & Order : 15.12.2023

Whether fit for
reporting : YES

HON'BLE MR.JUSTICE ARINDAM LODH

Judgment & Order

This is an application under Chapter VIII, Rule G of the Tripura High Court Rules, 2023 read with Section 114 of the Civil Procedure Code, 1908 filed by the Petitioners-Tripura Jute Mills Ltd. (for short "TJML"), for review/modification of the impugned judgment and order dated 15.11.2022, passed by this Court in connection with WP(C) No.693 of 2020.

2. At the very outset, this Court would like to revisit the reliefs sought for in the writ petition whereby the respondent-petitioner had prayed for paying him (1) unpaid balance amount of gratuity; (2) half pay leave encashment; (3) medical re-imbursement and (4) refund of illegal deduction of Rs.11,706/- from the earned leave encashment by the respondents i.e. the petitioners herein.

3. After a contested hearing, this court had granted the following reliefs vide judgment and order dated 15.11.2022 in favour of the original petitioner, i.e. the respondent herein:

“16.The offshoot of the aforesaid discussion is that Tripura Jute Mills Ltd. has framed its own rules to regulate the service conditions of its employees and providing better schematic pattern for payment of gratuity than that of the provisions as prescribed under the Payment of Gratuity (Amendment) Act, 2018. It is made clear that under sub-section 5 of section 4 of the Payment of Gratuity Act, 1972, any establishment or organization can make better provision as regards payment of gratuity for its employees and in that case, the Act of 1972 would not affect such schematic pattern for the interest of the employees of such establishment or organization.

17. Accordingly, it is further made clear that the balance amount of gratuity of Rs.4,95,942/- as granted to the petitioner shall carry interest @ 4% per annum. If any payment is due to the petitioner out of half pay leave, it shall also carry interest @ 4% per annum. It is also evinced that Rs.10,00,000/- out of gratuity has been paid only in the month of May, 2022 which was due to the petitioner at the time of his retirement. In view of this, that amount of Rs.10,00,000/- shall also carry interest @ 4% per annum from the date it fell due till the date of payment. The entire exercise as aforesaid shall be completed within a period of three months from the date of receipt of a copy of this order by the respondents.”

4. By way of filing the present review petition, the petitioners-TJML have urged before this Court that the impugned judgment and order is required to be reviewed since the respondent had misrepresented and manipulated the document (**Annexure-4** to the writ petition) based on which this Court granted the above reliefs to the respondent. The document relied

upon by the respondent in his writ petition for obtaining reliefs and questioned by the Review Petitioners in this petition is titled as ***“The Tripura Jute Mills Limited Standing Rules Regulations and Conditions of Service of the Managerial Staff and Assistants/Officers/Supervisors”*** [for short, ***“TJML Draft Standing Rules”***] whereas in the actual official document titled as ***“The Tripura Jute Mills Limited Standing Rules Regulations and Conditions of Service of the Managerial Staff and Assistants*** [for short, ***“TJML Official Standing Rules”***] the last two words ***“Officers/Supervisors”*** were absent. It is the firm stand of the petitioners that the TJML Official Standing Rules was approved in the 69th meeting of Board of Directors (for short, ‘BOD’) held on 27.11.1982 and it came into effect from 1st January, 1983 vide Memorandum No.TJ/ADMIN(01)/MD/658, dated 5th February, 1983 which was further amended vide Memo No.TJ/FI(49)/29/1/88, dated July 22, 1985 [*Annexure-R/5* to the review petition, page 202].

5. The petitioners contended in this review petition that in Rule 9.5 of the Standing Rules, the respondent had changed the line *“the gratuity shall be calculated and paid at the rate of 15 days last drawn salary (exclusive of H.R.A. and C.A. if he was paid any) for each completed year of service for a maximum period of 20 years or completed service”* from TJML Official Standing Rules to TJML Draft Standing Rules for *a maximum period of 40 years or completed service”*.

6. The petitioners herein, having found inconsistency in the matter, constituted a Committee headed by the Additional Director, Industries & Commerce Department, Govt. of Tripura as Chairman with three other members, such as Accounts Officer, TJML; Commercial Officer, TJML and

Jr. Supervisor, TJML to enquire into the status of '*TJML Official Standing Rules*' whether the respondent is entitled to get his service benefits as sought for in the writ petition which was allowed by this Court. According to the directions given by this Court as regards the payment of gratuity following the statements of the respondent in his writ petition the TJML prescribes better terms of gratuity. Reliance is being placed on the documents i.e. the '*Draft Standing Rules*' furnished by the respondent in his writ petition [Annexure-4] that he would be entitled to receive a sum of Rs. 24,95,942/- out of gratuity . However, it is apparent from the '*Official Standing Rules*' that there is no provision of better terms of gratuity in TJML. Pertinently, as per Payment of Gratuity [Amendment] Act, 2018, the maximum limit is Rs.20,00,000/-. The said Act came into force w.e.f. 29.03.2018. The respondent retired on 31.12.2018. The Payment of Gratuity Act, 1972 as amended in 2018 became applicable in TJML as per Memorandum dated 16.03.2022. Admittedly, the Review Petitioners had paid Rs.20,00,000/- to the respondent on his retirement in terms of the Payment of the Gratuity Act, 1972 as amended w.e.f. 29.03.2018. In view of this, the respondent is not entitled to an amount of Rs.4,87,308/- in excess which has already been paid to the respondent.

7. It is the further plea of the petitioners that regarding Half-pay leave, the Committee has observed that being a Managerial staff of TJML, the service conditions of the respondent, Shri Bhanu Lodh, Ex-Commercial Manager of TJML was governed by the '*TJML Official Standing Rules*'. As per Agenda No.14 of the 143rd meeting of 'BOD', TJML, held on 23.04.1999 [Annexure-R/8 to the review petition], it was resolved that half pay

leave/medical leave encashment would have to be stopped forthwith and the system of encashment of leave was introduced once in a service time at the time of retirement at par with the State Government Employees.

8. The petitioners further agitated that the 'BOD', TJML in its 153rd meeting held on 16.01.2002 [**Annexure-R/9** to the review petition] resolved that Medical Leave Encashment in Tripura Jute Mills Ltd. shall stand and continue. Again, the petitioners contended that Vide letter No.F.69(1)-LAB/SO/80/908 dated 22.02.2000 of Labour Directorate, Govt. of Tripura, it is notified that *"As per the provisions 33(1) of the 'STANDING ORDERS' Earned Leave shall be granted to the employees on a scale as provided in the Factory Act,1948. Earned leave can be accumulated upto 60 days. As per the provisions of 38(B) sub-clause (b) of the 'STANDING ORDERS' Sick leave may be accumulated upto 75 days with full pay."* According to the petitioners, medical leave encashment was adopted for the employees who are under the Standing Order by amending the provisions 38(B) sub-clause (b) of the 'STANDING ORDERS' [Annexure-R/11 to the review petition]. The petitioners herein have again averred that the respondent manipulated the retirement age from 58 to 60 years in his document produced before the Court i.e. '**TJML Draft Standing Rules**' whereas the notification regarding the Rule for increase of retirement age of officers, supervisors, employees and workers of TJML was issued on 3rd May, 2012 vide Memo No. TJ/SECY(1)/Follow Up/3226 and given effect from 1st April, 2012.

9. On the aforesaid background, I heard learned counsels appearing for the parties.

9.1 Mr. D. Bhattacharya, learned senior counsel along with Mr. P. Gautam, learned counsels appearing for the review petitioners submitted that the respondent has completely changed and manipulated the document i.e. '***TJML Draft Standing Rules***' for his personal gain and by annexing this document he had misled this Court. Mr. Bhattacharya, learned senior counsel further submitted that there is no existence of that Standing Rule, rather the Standing Rule that is in existence called as '***TJML Official Standing Rules***'. So, the respondent is not entitled to get the benefit of impugned judgment and order dated 15.11.2022 as the said judgment and order was passed on false and capricious pleading of the respondent i.e. the original petitioner. Mr. Bhattacharya, learned senior counsel thus prayed for review of the said impugned judgment.

10. Sum and substance of the submissions of Mr. Bhattacharya, learned senior counsel and Mr. Gautam, learned counsel appearing for the Review Petitioners was that the respondent had misled the Court and a fraud had been perpetrated towards the petitioners as well as the Court. After obtaining the certified copy of the impugned Judgment and Order passed in the writ petition, while on examining the records to implement the direction of this Court, it came to the notice of the petitioners that Shri Bhanu Lodh, the respondent herein had altered the actual Official Standing Rules. The main allegation that the ***Annexure-4*** to the impugned writ petition filed by Shri Bhanu Lodh does not match with the copy of the *Official Standing Rules & Regulations* maintained in the office of the petitioners.

Learned counsels for the petitioners have relied upon the following decisions:

- i. **K.D. Sharma Vrs. Steel Authority of India Ltd. & Ors.**, reported in (2008) 12 SCC 481;
- ii. **United India Insurance Co. Ltd. Vrs. Rajendra Singh & Ors.**, reported in (2000) 3 SCC 581;
- iii. **K. Jayaram & Ors. Vrs. Bangalore Development Authority & Ors.**, reported in (2022) 12 SCC 815 and
- iv. **Sri Durgesh Ranjan Choudhury Vrs. The State of Tripura & two Ors.**[decided on 23.03.2023 in WA No.19 of 2020 by a Division Bench of this court where I was one of the Members].

11. Mr. S. K. Deb, learned senior counsel assisted by Mr. S. Iodh and Ms. R. Purkayastha, learned counsels appearing for the respondent has submitted that this review petition is not maintainable as the grounds for review do not satisfy the provisions as embodied in Order 47 Rule 1 of the Civil Procedure Code, 1908 [for short, 'CPC']. Mr. Deb, learned senior counsel submitted that the service of the respondent is absolutely governed by the '*TJML Draft Standing Rules*' where provisions have been made for dealing with the aforesaid subjects as claimed by the original writ petitioner/respondent. His further contention is that there was no manipulation on behalf of the respondent. Learned senior counsel strongly argued that the petitioners herein cannot raise the plea of review of the matter because the matter was decided by a judgment elaborately assigning reasons thereof and if any party is aggrieved by the reasons in the judgment might approach the superior forum, but, cannot seek review. Learned senior counsel further submitted that the scope of review is very limited and a review application can only be entertained if there is any error apparent on the face of the record. Moreover, this court after prolonged hearing of learned counsels of both sides had passed the impugned judgment and order. The grounds agitated in the

review petition, could have been pointed out at the time of argument by learned counsels for the petitioners herein, but, they were silent about such pleas. According to Mr. Deb, learned senior counsel, at this stage, the plea raised by the Review Petitioners should not be entertained, rather, the petition for review should be dismissed *in limine*. It was candidly argued that respondent, Shri Bhanu Lodh had no fault in relying upon the questioned '**TJML Draft Standing Rules**' which was supplied by the TJML authority itself, and that apart this '**TJML Draft Standing Rules**' was also relied upon by the State Government while filing counter affidavit in response to a writ petition filed by an employee of TJML. So, according to learned senior counsel, the respondent Shri Bhanu Lodh cannot be held liable or, in other words, he should not be accused of making misleading statement before this Court. According to learned senior counsel appearing for the respondent, the present case is not a case of fraud as tried to be established by the petitioners-TJML.

12. I have meticulously perused the '*Draft Standing Rules*' as well as '*Official Standing Rules*'. The main argument advanced on behalf of the respondent/writ petitioner herein is that the review petition filed by the petitioners does not reveal any material to justify any error apparent on the face of the record, and the Court in exercise of its review jurisdiction under Order 47, Rule 1 CPC would not alter its judgment even it was passed on the basis of erroneous finding of facts and law.

13. Mr. Deb, learned senior counsel has placed reliance upon the following judgments in support of his submissions:

- i. **Moran Mar Basselios Catholicos & Anr Vrs. Most Rev. Mar Poulse Athanasius & Ors.** reported in (1955) 1 SCR 520: AIR 1954 SC 526;
- ii. **Vishweshwaraiah Iron & Steel Ltd. Vrs. Abdul Gani & Ors.**, reported in (1997) 8 SCC 713;
- iii. **Parsion Devi & Ors. Vrs. Sumitri Devi & Ors.**, reported in (1997) 8 SCC 715.
- iv. **Akhilesh Yadav Vrs. Viswanath Chaturvedi & Ors.** with other connected review petitions reported in (2013) 2 SCC 1 and
- v. **State of West Bengal & Ors. Vrs. Kamal Sengupta & Anr.**, reported in (2008) 8 SCC 612.

14. Here, the petitioners-Tripura Jute Mills Ltd. has come up with this review petition with a serious allegation against the respondent and asserted that after perusal of the impugned judgment on 15.12.2022 when they decided to implement the direction given in the Court, they found a grave error, which according to review petitioners “a serious fraud” was caused by the respondent. It was alleged that the ‘*Draft Standing Rules*’ annexed to the writ petition as ***Annexure-4*** had been manipulated by the then Commercial Manager, Bhanu Lodh, i.e. the respondent herein himself and submitted before the Court that he altered/changed certain versions encrypted in the ‘*Official Standing Rules*’ titled as ‘***TJML Official Standing Rules***’ which had been approved by the ‘BOD’, TJML and enforced in TJML vide Memorandum No. TJ/ADMIN(01)/MD/658 dated 5th February, 1983. The petitioners had found some inherent defect apparent in the ‘*Draft Standing Rules*’ than that of the ‘*Official Standing Rules*’, the original copy of which was made out of manual type-writer machine being issued vide Memorandum dated 5th February, 1983 after its approval by the ‘BOD’ in its 69th meeting held on 27.11.1982 and was not matching with the copy of the ‘*Official Standing Rules*’ maintained in the Office of the Petitioners.

15. A comparative statement of changes/alteration or manipulation, according to the Review Petitioners, may be reproduced in a tabular form hereunder for convenience:

1. No.	Particulars		As per Official Standing Rules	As per Standing Rules filed by the respondent in his writ petition as Annexure-4.
1.	Nomenclature		Tripura Jute Mills Limited Standing Rules Regulations and Conditions of Service of the Managerial Staff and Assistants.	Tripura Jute Mills Limited Standing Rules Regulations and Conditions of Service of the Managerial Staff and Assistants/Officers/Supervisors
2.	9.5	Gratuity	The gratuity shall be calculated and paid at the rate of 15 days last drawn salary (exclusive of H.R.A. and C.A. if he was paid any) for each completed year of service <u>for a maximum period of 20 years or completed service.</u>	The gratuity shall be calculated and paid at the rate of 15 days last drawn salary (exclusive of H.R.A. and C.A. if he was paid any) for each completed year of service <u>for a maximum period of 40 years or completed service irrespective of gratuity limit.</u>
3.	9.6(c)	Half Pay Leave	Half pay leave can be accumulated upto 120 days.	Accumulation of Half Pay Leave: <u>Non avail accrued half pay leave shall be accumulated/credited in the leave account of staff concern.</u>

16. The Committee enquired into the matter and after inquiry submitted report with the following observations:

“5.Obervation of the Committee:

The Committee observed that a copy of invalid Standing Rules, titled “The Tripura Jute Mills Limited Standing Rules Regulations and Conditions of Service of the Managerial Staff and Assistants/Officers/Supervisors” signed by two signatories namely Nikhil Sarkar (Retd.), Ex-Administrative Officer, TJML and Sri Sudip Chakraborty (Retd.), Ex-Welfare Officer, SPIO, TJML which was annexed by the Petitioner (Annexure-4) in the Writ Petition No.693 of 2020 on the basis of which the Hon’ble High Court passed order to award the petitioner better terms of gratuity and unlimited half pay leave encashment.

The Committee called in the two retired officers namely Sri Nikhil Sarkar (Retd.), Ex-Administrative Officer, TJML and Sri Sudip Chakraborty (Retd.) Ex-Welfare Officer, SPIO, TJML for clarification and status of the said standing rule since TJML official Standing Rules titled “The Tripura Jute Mills Limited Standing Rules Regulations and Conditions of Service

of the Managerial Staff and Assistants” is already existed. The two officers appeared before the committee and submitted written statement on the status of the TJML Standing Rules.

Statement of Sri Nikhil Sarkar (Retd.) Ex-Administrative Officer, TJML and Sri Sudip Chakraborty (Retd.), Ex-Welfare Officer, SPIO,TJML are annexed as Annexure A and B respectively.

Sri Nikhil Sarkar, (Retd.), Ex-Administrative Officer, TJML in his written submission stated that as per verbal instruction of the then Managing Director, TJML a draft on Standing Rules of Officers and Supervisors, TJML titled “The Tripura Jute Mills Limited Standing Rules Regulations and Conditions of Service of the Managerial Staff and Assistants/Officers/Supervisors” was prepared by the then Commercial Manager, Shri Bhanu Lodh modifying the certain provisions of the official Standing Rules titled “The Tripura Jute Mills Limited Standing Rules Regulations and Conditions of Service of the Managerial Staff and Assistants” and the said draft Standing Rules was signed by Sri Sarkar. But the said draft Standing Rules was never placed before the BOD for approval and no notification was issued on this matter and has not its validity.

A copy of written statement of Sri Nikhil Sarkar (Retd.), Ex-Administrative Officer, TJML is annexed as Annexure-E.

Statement of Sri Sudip Chakraborty (Retd.), Welfare Officer, TJML and SPIO, TJML.

As per written submission of Sri Sudip Chakraborty, as per available records maintained in Tripura Jute Mills Ltd. Sri Bhanu Lodh, Petitioner of the case No.W.P(C) No.693 of 2020 had never applied for a copy of Standing Rules instead one Sri Biswadatta Debbarma had applied for a copy of Draft Standing Rules “The Tripura Jute Mills Limited Standing Rules Regulations and Conditions of Service of the Managerial Staff and Assistants/Officers/Supervisors” on 07.08.2020 through RTI. Accordingly, he was supplied a signed copy of the same (signed by Sri Nikhil Sarkar, the then Administrative Officer, TJML) on 10.08.2020.

A copy of written statement Sri Sudip Chakraborty ,(Retd.), Ex-Welfare Officer, TJML is annexed as Annexure-F.

6. Opinion of the Committee:

On the ground of the aforesaid statements of the two signatories it is revealed that the official Standing Rules for officers and supervisors of TJML titled “The Tripura Jute Mills Limited Standing Rules Regulations and Conditions of Service of the Managerial Staff and Assistants” which was approved in the 69th meeting of Board of Directors held on 27.11.1982 enforced in TJML from 1st January,1983 vide memorandum No.TJ/ADMIN(01)/MD/658 dated 5th February,1983 is still valid and enforced in TJML.

At the same time the draft standing Rules titled “The Tripura Jute Mills Limited Standing Rules Regulations and Conditions of Service of the Managerial Staff and Assistants/Officers/Supervisors” that was annexed by the Petitioner in case No.W.P.(C) No.693 of 2020 is a false and fabricated one and has no validity.

The Committee also observed that as per official record following resolutions were taken by the Board of TJML changing some provisions of the official Standing Rules as detailed below:

- Increase of retirement age of Officers, Supervisors, Employees and Workers of Tripura Jute Mills Ltd. from 58 years to 60 years was approved vide notification No.TJ/SECY(1)/Follow up/3226 dated 03.05.2012 pursuant to the decision of the State Govt. and subsequent approval of the Board of Directors of TJML vide resolution by circulation dated 23.04.2012.

A Photocopy of notification No.TJ/SECY(1)/Follow up/3226 dated 03.05.2012 is annexed as **Annexure-G**.

- Regarding Leave Encashment, it was resolved in the 143rd meeting of Board of Directors, TJML held on 23-04-1999 in Agenda item No.14 that the existing system of leave encashment shall be stopped forthwith and the system of encashment of leave once in a service time at the time of retirement at par with State Government employees be introduced.

A photocopy of the resolution taken in the 143rd meeting of Board Directors, TJML held on 23-04-1999 is **annexed as Annexure-H**.

- No notification was issued amending the provisions of 9.5 Gratuity and 9.6(c)3 Half Pay Leave of the Official Standing Rules.
- Pursuant to the decision of the government vide letter No.F.DI/Legal/12(896)/2022/1909-23 dated 14.12.2022 the I & C Department, Govt. of Tripura and subsequent resolution taken in the 228th meeting of Board of Directors held on 22.02.2022 a memorandum dated 16.03.2022 of TJML was issued adopting the act of Payment of Gratuity, 1972 (as amended in 2018) for the employees retired/to be retired on or after the said amendment with effect from 29th March, 2018 as per the ceiling amount of Rs.20 Lakh.

A photocopy of the letter No. F.DI/Legal/12(896)/2022/1909-23 dated 14.12.2022 the I & C Department, Govt. of Tripura is annexed as **Annexure-I**.

A photocopy of the memorandum dated 16.03.2022 of TJML is annexed as **Annexure-J**.

The Petitioner annexed a MEMORANDUM No.F.NO.TJ/PD(16)/21, the 30th April, 2002. It was notified that Board of Directors of the Company in its 153rd Meeting held on 16-01-2002 “RESOLVED THAT –Medical Leave Encashment in Tripura Jute Mills Ltd. shall stand and continue.”

The aforesaid decision was taken on the Agenda No.6(C), titled ‘STANDING ORDERS’ of TJML of the 153rd meeting of BOD, TJML held on 16.01.2002 wherein the Board deliberated on the ORDER issued by the Appellant Authority and noted the rescinding by the Appellant Authority of modification certified by the Certifying Officer in Rule 38(b) of Standing Orders of TJML and resolved as under.

“Resolved that Medical Leave Encashment in Tripura Jute Mills Ltd. shall stand and continue.

Further resolved that modifications acceded to by the Appellant Authority in Rule 18(5) be incorporated in the Original “Standing Orders” of TJML.”

A photocopy of the minutes of the 153rd Meeting held on 16-01-2002 annexed as **Annexure-K**.

It is to mention here that all the employees of TJML other than officers and supervisors are guided by "STANDING ORDERS" of Tripura Jute Mills Ltd. made under sub-section (2) of section 5 of the Industrial Employment (Standing Orders) Act, 1946, certified by the Labour Directorate, Government of Tripura vide letter No.F.69(1)/LAB/SO/80/2831 dated 23.04.1981.

A Photocopy of the Standing Orders of TJML is annexed as **Annexure-L.**

The service conditions of the officers and supervisors are guided by "**The Tripura Jute Mills Limited Standing Rules Regulations and Conditions of Service of the Managerial Staff and Assistants**" that was approved in the 69th meeting of Board of Directors held on 27.11.1982 and have come into effect from 1st January, 1983 vide memorandum No.TJ/ADMIN(01)/MD/658 dated 5th February, 1983.

A photocopy of the Standing Orders of TJML is annexed as **Annexure-M.**

A photocopy of the Standing Rules of TJML is annexed as **Annexure-B.**

Being a managerial staff of TJML, Sri Bhanu Lodh, ex-Commercial Manager of TJML was also governed by the "**The Tripura Jute Mills Limited Standing Rules Regulations and Conditions of Service of the Managerial Staff and Assistants.**"

Vide letter No.F.69(1)-LAB/SO/80/908 dated 22.02.2000 of Labour Directorate, Govt. of Tripura it is notified that "As per the provision 33(1) of the "STANDING ORDERS" Earned Leave shall be granted to the employees on a scale as provided in the Factory Act, 1948. **Earned leave can be accumulated up to 60 days.**

As per the provision 38(B) sub-clause (b) of the "STANDING ORDERS" **Sick leave may be accumulated upto 75 days with full pay."**

Accordingly medical Leave encashment was adopted for the employees who are under the Standing Order by amending the provisions 38(B) sub-clause(b) of the STANDING ORDERS.

A photocopy of the letter No.F.69(1)-LAB/SO/80/908 dated 22.02.2000 of Labour Directorate, Govt. of Tripura is annexed as **Annexure-N.**

Hence, being a managerial staff of TJML, the service conditions of Sri Bhanu Lodh, ex-Commercial Manager of TJML was also governed by the "**The Tripura Jute Mills Limited Standing Rules Regulations and Conditions of Service of the Managerial Staff and Assistants**". Hence leave encashment provisions for the works and employees guided by STANDING ORDERS are not applicable to the officers and supervisors of TJML including Sri Bhanu Lodh. Hence his claim for encashment of Half Pay Leave has no merit since the system of encashment of leave once in a service time at the time of retirement at par with State Government employees has already been introduced in TJML in pursuant to the resolution taken in the 143rd meeting of Board of Directors, TJML held on 23-04-1999 in Agenda item No.14.

Copies of Leave Encashment Rules in other PSUs are annexed as **Annexure-O.**

Accordingly, Leave Encashment of the Officers and Supervisors under the purview of the Jute Mills Standing Rules were/are being paid at par with the employees of the state government/other PSUs established by the Govt. of Tripura. As per the payment of Leave Salary rule of the other PSUs, the amount of leave salary is paid on their superannuation to the extent of only 300 days earned leave remaining credited to the leave account of the concerned employee.

Accordingly, Sri Bhanu Lodh was paid Rs.13,11,000/- as leave salary, Sri Lodh had drawn monthly salary Rs.1,31,000/- (Basic + D.A.) as on 31.12.2018 i.e. at the time of his superannuation and accumulated earned Leave was 300 days i.e. 10 months. Accordingly, as per norms, the petitioner was entitled leave salary for an amount of Rs.1,31,000/- x 10 months = Rs.13,11,000/- and payment made accordingly.

Further there is no provision of better terms of gratuity in TJML Standing Rules as discussed in aforesaid Para-3 & 4. The claim of the Petitioner in WP(C) No.693 of 2022 was on the basis of manipulated and invalid Standing Rules filed by him for his personal gain. Payment of gratuity is now guided by the decision of the government vide letter No.F.DI/Legal/12(896)/2022/2019-23 dated 14.02.2022 the I & C Department, Govt. of Tripura and subsequent resolution taken in the 228th meeting of Board of Directors held on 22.02.2022 and memorandum dated 16.02.2022 issued by TJML adopting the Act of Payment of Gratuity, 1972 (as amended in 2018) for its employees retired/to be retired on or after the said amendment with effect from 29th March,2018 as per the ceiling amount of Rs.20 Lakh.

Payment of Gratuity made to Sri Bhanu Lodh on his retirement on 31.12.2018 as per Payment of Gratuity (Amendment) Act,2018 under 'Payment of Gratuity Act,1972' where maximum limit of Rs.20.00 Lakh

Date of joining in TJML :15.01.1986

Date of Retirement from TJML: 31.12.2018, hence he is under the Payment of Gratuity (Amendment) Act,2018.

Total completed service: 32 years 11 months 16 days.

Total service for entitlement of gratuity: 33 years.

Calculation formula

The formula for gratuity is : Gratuity (G) = $n * b * 15/26$, where, n = number of completed years in the current organization. b = the Last salary drawn or basic pay plus dearness allowance. Note: The number of working days in a month is considered as 26.

Here,

$n = 33$; $b = \text{Rs.}1,31,100/-$, then

Total of gratuity= Rs. $(33 \times 1,31,100 \times 15) \div 26 = \text{Rs.}24,95,942/-$

But as per provision of the Payment of Gratuity,1972 (as amended in 2018) ceiling amount is Rs.20.00 Lakh. Accordingly, Sri Bhanu Lodh was paid full amount of gratuity of Rs.20.00 Lakh (Rupees twenty lakh) as per Payment of Gratuity (Amendment) Act,2018 under 'Payment of Gratuity Act,1972' as per memorandum dated 16.03.2022 of TJML. Hence his claim for better terms of gratuity standing on fake Rules has no merit.

Conclusion: It is clear from the statement of 2(two) signatories namely Sri Nikhil Sarkar (Retd.), Ex-Administrative Officer, TJML and Sri Sudip Chakraborty (Retd.), Ex-Welfare Officer, SPIO, TJML and the record

available that Shri Bhanu Lodh, the petitioner of the case No.WP(C) 693 of 2022(sic) submitted false and fabricated information/records before the Hon'ble High Court for his personal gain motivatedly. Therefore, he is not entitled to any benefit for which he has misled the Hon'ble Court."

17. I have carefully gone through the '**TJML Draft Standing Rules**' i.e. **Annexure 4** to the impugned writ petition and '**TJML Official Standing Rules**' side by side. On meticulous study of the two, it is found that the '**TJML Official Standing Rules**' had been approved in the 69th meeting of 'BOD' held on 27.11.1982 and enforced in TJML from 1st January,1983 vide Memorandum No.TJ/ADMIN(01)/MD/658, dated 5th February,1983 which is still valid and in existence, whereas, the '**TJML Draft Standing Rules**' it is found that two signatories namely Shri Nikhil Sarkar, the then Administrative Officer and Sri Sudip Chakraborty, the then Welfare Officer, SPIO in TJML have signed on it on 03.04.2017 and 10.08.2017 respectively. It is very significant to note that in that '**Draft Standing Rules**', OFFICERS/SUPERVISORS, these two words have been added which established the fact of manipulation and malpractice. Here, it is pertinent to mention that in the inquiry report when the Committee examined Shri Nikhil Sarkar, the then Administrative Officer of TJML, he stated in his written statement that as per verbal instruction of the then Managing Director, TJML a draft of "**The Tripura Jute Mills Limited Standing Rules Regulations and Conditions of Service of the Managerial Staff and Assistants/Officers/Supervisors**" was prepared by the then Commercial Manager, Shri Bhanu Lodh modifying certain provisions of the existing Rule i.e. "**The Tripura Jute Mills Limited Standing Rules Regulations and Conditions of Service of the Managerial Staff and Assistants**". Importantly,

Shri Sarkar, re-affirmed that the said '*Draft Standing Rules*' was never placed before the 'BOD' for approval and no notification was issued on this matter. So, that '*Draft Standing Rules*' has no force and become invalid.

18. In regard to the gratuity, in the actual '*Official Standing Rules*' i.e. '*TJML Official Standing Rules*' it is written that-- "*.....The gratuity shall be calculated and paid at the rate of 15 days last drawn salary (exclusive of H.R.A. and C.A. if he was paid any) for each completed year of service for a maximum period of 20 years or completed service.*" whereas the document annexed by the petitioner as Annexure-4 to the impugned writ petition it is written that --"*....The gratuity shall be calculated and paid at the rate of 15 days last drawn salary (exclusive of H.R.A. and C.A. if he was paid any) for each completed year of service for a maximum period of 40 years or completed service irrespective of gratuity limit.*" Therefore, the '*Draft standing Rules*' that was annexed in the writ petition by the petitioner is again well found to be a forged and manipulated one and the petitioner had submitted it for his personal gain.

19. Regarding Half Pay Leave, this court directed in the impugned writ petition that *if any payment is due to the petitioner out of half pay leave, it shall also carry interest @ 4% per annum.* The actual '*TJML Official Standing Rules*', stipulates in Clause 9.6(c)3 that – "Half Pay Leave can be accumulated upto 120 days". But, on perusal of the minutes of the 143rd meeting of 'BOD' of TJML, held on 23.04.1999, it is revealed that in that meeting, the 'BOD' resolved in Agenda No.14 that – '*the system of leave encashment shall be stopped forth-with and the system of encashment of leave*

once in a service time at the time of retirement at par with State Government employees be introduced.'

20. On the above background facts, while this Court was interacting with the respondent, Shri Bhanu Lodh, he admitted that he was one of the managerial staff under TJML and also acted as Commercial Manager for a substantial period of time and his service conditions are governed by the *Official Standing Rules*.

20.1 Interesting to note that during the course of inquiry conducted by a Committee constituted vide Memorandum dated 04.01.2023 at Para 15 & 16 in this judgment, the signatories of the relevant '*TJML Draft Standing Rules*' relied upon by the writ petitioner, i.e. the respondent herein, Shri Nikhil Sarkar (retired) Ex-Administrative Officer, TJML and Shri Sudip Chakaraborty (retired) Ex-Welfare Officer, SPIO, TJML had adduced evidence in writing that as per verbal instruction of the then Managing Director, TJML a draft Standing Rules of Officers and Supervisors, TJML titled as "*The Tripura Jute Mills Limited Standing Rules Regulations and Conditions of Service of the Managerial Staff and Assistants/Officers/Supervisors*" was prepared by the then Commercial Manager, Shri Bhanu Lodh modifying certain provisions of the '*TJML Official Standing Rules*' titled as "*The Tripura Jute Mills Limited Standing Rules Regulations and Conditions of Service of the Managerial Staff and Assistants*" and the said *Draft Standing Rules* was signed by Shri Nikhil Sarkar himself. Shri Nikhil Sarkar had further adduced evidence in writing that the said *Draft Standing Rules* was never placed before the 'BOD', TJML

for approval and no notification was issued on this matter. The proceeding and the report of the inquiry have been annexed to the review petition as ***Annexure-R/4*** which is also reproduced here-in-above at Para 15 & 16. Statements of Nikhil Sarkar and Sudip Chakraborty are enclosed with the report of the Inquiry Committee.

21. Again, Shri Sudip Chakraborty (retired) Ex-Welfare Officer, SPIO, TJML in his written submissions before the Committee adduced evidence that as per available record maintained in TJML, Shri Bhanu Lodh, the petitioner of the case No. WP(C) 693 of 2020 had never applied for a copy of ‘*Draft Standing Rules*’, rather, one Sri Biswadatta Debbarma had applied for a copy of ‘*Draft Standing Rules*’ on 07.08.2020 through RTI. Accordingly, he was supplied a signed copy of the same (signed by Shri Nikhil Sarkar, the then Administrative Officer, TJML) on 10.08.2020. On consideration of the materials, the Inquiry Committee came to a finding that ***“The TJML Official Standing Rules”*** which was approved in the 69th meeting of ‘BOD’ held on 27.11.1982 enforced in TJML from 1st January, 1983 vide Memorandum No. TJ/ADMIN(01)/MD/658 dated 5th February, 1983 is still valid and enforced in TJML and the ‘*Draft Standing Rules*’ which was annexed by the petitioner in case No. WP(C) 693 of 2020 was a false and fabricated one having no validity. The Inquiry Committee further opined that pursuant to the decision of the Government vide letter No. F.DI/Legal/12(896)/2022/1909-23, dated 14.12.2022, the I & C Department, Govt. of Tripura and subsequent resolution taken in the 228th meeting of ‘BOD’ held on 22.02.2022, a Memorandum dated 16.03.2022 of TJML was issued adopting the Payment of Gratuity

Act, 1972 (as amended in 2018) for the employees retired/to be retired on or after the said amendment w.e.f. 29th March, 2018 as per the ceiling amount of Rs.20 Lakh.

22. The Inquiry Committee ultimately opined that the claim of the writ petitioner, the respondent herein was on the basis of manipulated and invalid '*Draft Standing Rules*' filed by him for his personal gain. The report of the Inquiry Committee concluded with the remarks that Shri Bhanu Lodh, respondent herein, submitted false and fabricated information/records before this Court for his personal gain motivatedly and he was not entitled to any benefit as he claimed in his report.

23. I have given my thoughtful considerations to the inquiry report. As I said earlier, during the proceeding of the present review petition, I had the advantage of interacting with Shri Biswadatta Debbarma who appeared personally. In front of the writ petitioner/respondent, Shri Biswadatta Debbarma had informed this Court that he applied for '*Draft Standing Rules*' which was supplied to him by the SPIO, TJML and after a few days the said copy was taken over by the respondent. I have given my thoughtful considerations to the conduct of the respondent, i.e. the writ petitioner. According to me, it is hard to digest that being an Officer of TJML and working as a Commercial Manager who prepared the '*Draft Standing Rules*' himself was ignorant of the fact that the said '*Draft Standing Rules*' was never produced before the 'BOD' for consideration, nonetheless, it was approved by the 'BOD'.

23.1 More so, in law, ‘*ignorantia juris non-excusat*’ i.e. ignorance of law excuses not, or ‘*ignorantia legis neminem excusat*’ i.e. ignorance of law excuses no one. *It is an established legal principle that a person who is unaware of a law may not escape liability for violating that law merely because one was unaware of its content. In other words, the Court presumes that every party is aware of the law and hence, cannot claim ignorance of the law as a defence to escape liability.*

[Emphasis supplied]

24. There is yet another serious question that strikes me as to why the respondent had taken the copy of the ‘*Draft Standing Rules*’ from Shri Biswadatta Debbarma just after a few days and further, how the respondent came to know that Shri Biswadatta Debbarma had applied for obtaining the ‘*Draft Standing Rules*’ through RTI application. At this juncture, I have revisited the affidavit sworn in by the writ petitioner/respondent in his writ petition to verify his statements as regards the source of obtaining this document. I found that Shri Bhanu Lodh i.e. the writ petitioner/respondent ***had not disclosed the source of obtaining the copy of this Draft Standing Rules.*** At Para 2 of his affidavit which he had sworn in on oath in connection with case no. WP(C) 693/2020, Shri Bhanu Lodh i.e. the writ petitioner/respondent has stated that the averments he made in the writ petition were true to his knowledge. Curious enough at Para 3, Shri Bhanu Lodh has stated that—

“the annexures enclosed herewith are the photocopies from the original.....

This is true to my knowledge.”

24.1 From this statement in the affidavit, it is clear that he has not disclosed that he obtained the copy of the '*Draft Standing Rules*' from Shri Biswadatta Debbarma, which he annexed to the writ petition. Furthermore, it is evident from his statement that it was within his knowledge that the said photocopy of the '*Draft Standing Rules*' was a photocopy from the original. This statement made in Para 3 of the affidavit is a blatant lie which was enough to mislead the Court and obviously, it misled this Court while pronouncing its judgment in WP(C) 693/2020. So, knowing fully well that it was not the photocopy from the original, the petitioner has made a statement which is nothing but a false representation of the actual fact **which was aimed to commit fraud with the Court and forced the Court to commit error/mistake.**

[underlined for emphasis]

24.2 Curious enough, the respondent at para 3(i) of his Affidavit-in-Opposition filed in response to the review petition has admitted that he obtained the copy of the '*Draft Standing Rules*' from Sri Biswadatta Debbarma, who obtained the said copy under RTI Act on 10.08.2020.

24.3 Furthermore, the respondent at para 3(ii) of the Affidavit-in-Opposition has admitted that there are some variations in some words of the document (*Draft Standing Rules*), like "*irrespective of gratuity limit*" in Clause 9.5, which relied in his writ petition.

25. It is pertinent to mention herein that both Shri Bhanu Lodh, the respondent of this review petition and Shri Biswadatta Debbarma were standing in front of the Court very close to each other and Shri Bhanu Lodh

never denied the statement made by Shri Biswadatta Debbarma that Shri Bhanu Lodh had taken away copy of the '*Draft Standing Rules*' from him which was obtained through RTI application just after a few days of his receipt of the said draft rules.

26. Again, the respondent to controvert the statements made in the review petition, at para 5 of the Affidavit-in-Opposition simply stated that the statements made in the review petition are matters of records and anything contrary thereto is denied and disputed.

27. At para 4.C. of the review petition, the petitioners have clearly stated that the '*Draft Standing Rules*' relied upon by the respondent/writ petitioner annexed to the writ petition as *Annexure-4* was a manipulated document and the actual Official Standing Rules in possession of the petitioners titled as "***The TJML Standing Rules of Managerial Staff and Assistants***" was approved in the 69th meeting of 'BOD' held on 27.11.1982 and came into effect from 1st January, 1983 vide Memorandum No.TJ/ADMIN(01)/MD/658, dated 5th February, 1983 which was further amended vide Memorandum No.TJ/FI(49)/20/1/88 dated July 22, 1985. A copy of the said Memorandum dated 5th February, 1983 is annexed to the review petition as *Annexure-R/6*. There is no specific denial by the respondent in its Affidavit-in-Opposition in response to the aforesaid contentions made by the Review Petitioners.

28. From the statements made in the Affidavit-in-Opposition, it is crystallized that the respondent of this review petition has come up with evasive denials to the statements made in the review petition.

Order 8, Rule 3 of CPC provides that- *‘the defendant must deal specifically with each allegation of fact of which he does not admit the truth.’* Again, Rule 4 of Order 8 contemplates that- *‘where a defendant denies an allegation of fact in the plaint, he must not do so evasively, but answer the point of substance.’* Order 8, Rule 5 of CPC stipulates that- *‘every allegation of fact in the plaint, if not denied specifically or by necessary implication, or stated to be not admitted in the pleading of the defendant, shall be taken to be admitted except as against a person under disability.’*

29. As I said earlier, the respondent in his Affidavit-in-Opposition has neither specifically nor by necessary implications denied the primary and principal allegations made in this review petition.

30. Interestingly, the respondent at para 2 of his Affidavit-in-Opposition has categorically stated that *“For the shake(sic) of brevity, meticulous denial of every statement/avermnt/allegation is avoided”*, which needless is contrary to normal rule of pleadings. Noticeably, when the review petitioners clearly stated in their review petition that *‘Official Standing Rules’* which is under their possession does not contain the words **“Officers/Supervisors”**, in that case, the respondent should come up with the original copy of the Memorandum dated 05.02.1983 which he relied upon in the writ petition or should have stated in his affidavit that it is the photocopy of the original or he could ask for production of the *‘Official Standing Rules’* governing the service conditions of the **Officers/Supervisors** employed under the Review Petitioners. The respondent Shri Bhanu Lodh also had an opportunity to deny the statements made by Shri Biswadatta Debbarma in the

Court that he had taken away the copy of the '*Draft Standing Rules*' just after few days. Ultimately, I can safely hold that the statements made by the Review Petitioners supported by the documents annexed to the review petition, in the opinion of this Court, shall be considered as admission as contemplated under Rule 5 of Order 8 of CPC.

31. The aforesaid discussions compelled me to come to a conclusion that the respondent willfully and deliberately represented a false and fictitious document which was most vital to decide as regards the reliefs he sought for in his writ petition and thus committed fraud to the Court leading this Court to pass directions which the respondent were not entitled to. While granting the reliefs in favour of the respondent, this Court held that TJML had its own Rules to regulate the service condition of its employees and provided a better scheme for payment of gratuity than that of the provisions as prescribed under Payment of Gratuity (Amendment) Act, 2018 which is permissible under sub-Section (5) of Section 4 of the Payment of Gratuity Act, 1972 and directed the Review Petitioners to make payment of the balance amount of gratuity to the extent of Rs.4,95,942/- along with other benefits.

32. Those directions passed in the writ petition were the result of the deliberate misrepresentation of facts. The writ petitioner appeared before this Court and during interaction with him I had noticed that the conduct of the writ petitioner was unbecoming. The adamancy he had shown and the way he tried to twist the relevant provisions of the '*Draft Standing Rules*' it was unexpected. Despite the efforts made by this Court to persuade him to withdraw or take back his claim which the Court granted in favour of him on misrepresentation of real facts, he was found to be unrepentant to his acts and

conducts in placing reliance upon a non-existent Draft Standing Rules. He stuck to his stand and deliberately tried to adopt an arm twisting technique saying that the said non-existent '*Draft Standing Rules*' was relied upon by the State itself in connection with a writ petition. It is no longer *res-integra* that if a mistake is committed earlier, that cannot be a ground for directing the party to perpetuate the error for all times to come.

33. This Court is of the firm view that had the actual and prevalent '*Official Standing Rules*' during the course of hearing of the writ petition, been produced, this Court would have arrived at a different finding which might have altered the judgment passed in writ proceeding since the respondent-writ petitioner being an officer does not come under the purview of the said '*Official Standing Rules*' meant for managerial Staff and Assistants.

Furthermore, it is hard to digest that the petitioner on being holding the post of Administrative Officer for several years was unaware of the valid Standing Rules, which for all practical purposes is a non-existent document.

34. Added to it, what have been stated in the preceding paragraphs, in the opinion of this Court, in order to sustain and maintain sanctity and solemnity of the proceedings in law courts it is obvious that parties should not make false or knowingly, inaccurate statements or misrepresentation and/or should not conceal material facts or be based upon twisted facts, with an intention to gain some advantage or benefit at the instance of the court, since a court is considered as a place where truth and justice are the solemn pursuits. If any party attempts to pollute such a place by adopting recourse to make

misrepresentation and is concealing material facts it does so at its risk and cost. Such party must be ready to take consequences that follow on account of its own making. At times lenient or liberal or generous treatment by courts in dealing with such matters are either mistaken or lightly taken instead of learning proper lesson. Hence there is a compelling need to take serious view in such matters to ensure expected purity and grace in the administration of justice.

35. My above view is fortified by a decision of the Hon'ble Supreme Court in the case titled as ***K.D. Sharma Vrs. Steel Authority of India Ltd.***, reported in (2008) 12 SCC 481, wherein it was observed thus:

“34. The jurisdiction of the Supreme Court under Article 32 and of the High Court under Article 226 of the Constitution is extraordinary, equitable and discretionary. Prerogative writs mentioned therein are issued for doing substantial justice. It is, therefore, of utmost necessity that the petitioner approaching the writ court must come with clean hands, put forward all the facts before the court without concealing or suppressing anything and seek an appropriate relief. If there is no candid disclosure of relevant and material facts or the petitioner is guilty of misleading the court, his petition may be dismissed at the threshold without considering the merits of the claim.

35. *****

36. A prerogative remedy is not a matter of course. While exercising extraordinary power a writ court would certainly bear in mind the conduct of the party who invokes the jurisdiction of the court. If the applicant makes a false statement or suppresses material fact or attempts to mislead the court, the court may dismiss the action on that ground alone and may refuse to enter into the merits of the case by stating, “We will not listen to your application because of what you have done.” The rule has been evolved in the larger public interest to deter unscrupulous litigants from abusing the process of court by deceiving it.”

36. In this situation, I have no hesitation to hold that in the writ petition, the petitioner, the respondent herein, had obtained the reliefs by making false representation *qua* suppression of material/twisted facts and by way of committing fraud to the Court for his wrongful gain. In addition, the respondent, Shri Bhanu Lodh of this review petition had misled this Court by

fraudulent concealment of the relevant document which plays the crucial role in determining the extent of his entitlement to the gratuity amount and other financial benefits as he claimed in his writ petition.

37. In the case of *United India Insurance Company Ltd. Vrs. Rajendra Singh & Ors. reported in (2000) 3 SCC 581* having taken reference to the case of *S.P. Chengalvaraya Naidu, (Dead) by LRs v. Jagannath (Dead) by LRs*, reported in *(1994) 1 SCC 1* as referred to by Mr. Gautam, learned counsel appearing for the petitioners has reiterated the principles delineated in the aforesaid decision. The relevant paragraphs in *Naidu* (supra) may be reproduced hereunder:

"5. The Courts of law are meant for imparting justice between the parties. One, who comes to the Court, must come with clean hands. We are constrained to say that more often than not, process of the Court is being abused. Property-grabbers, tax-evaders, bank-loan dodgers and other unscrupulous persons from all walks of life find the court-process a convenient lever to retain the illegal gains indefinitely. We have no hesitation to say that a person, whose case is based on falsehood, has no right to approach the Court. He can be summarily thrown out at any stage of litigation.s

6. A fraud is an act of deliberate deception with the design of securing something by taking advantage of another. It is a deception in order to gain by another's loss. It is a cheating intended to get an advantage of another A litigant, who approaches the Court, is bound to produce all the documents executed by him, which are relevant to the litigation. If he withholds a vital document in order to gain advantage on the other side then he would be guilty of playing fraud on the Court as well as on the opposite party."

38. According to the Advanced Law Lexicon (Sixth Edition), 2023 Latin Maxim "*Suppressio veri, suggestio falsi*" defines suppression of the truth is equivalent to the suggestion of falsehood. The suppression or failure to disclose what one party is bound to disclose to another, may amount to fraud.

39. I have the opportunity to peruse a widely appreciated judgment as regards the impact of suppression of material facts in a case, titled as *Briguram De Vrs. State of West Bengal*, reported in *2018 SCC OnLine Cal 8141* where it was held that- *“it is trite law that a petitioner has to come with clean hands and has to disclose the relevant materials and act in good faith. Any departure from the same may lead to a dismissal of a writ petition at the very threshold.”*

39.1 Having held so, in *Briguram De* (supra), the High Court had examined various aspects of fraud, fraudulent concealment and doctrine of clean hands in great detail. It would be wise to reproduce the relevant paragraphs of the said judgment hereunder:

“12. The only question that arises in this writ petition is whether this court sitting in its writ jurisdiction should take note of the material suppression by the writ petitioner and dismiss this writ petition. It is trite law that a petitioner has to come with clean hands and has to disclose the relevant materials and act in good faith. Any departure from the same may lead to a dismissal of a writ petition at the very threshold. At this juncture, I embark on an examination of the definition of fraud, fraudulent concealment and the doctrine of clean hands, and thereafter, on how courts in the past have handled such situations.

13. ‘Fraud’, according to Black’s law Dictionary, 10th Edition, is a knowing misrepresentation or knowing concealment of a material fact made to induce another to act to his or her detriment; a reckless misrepresentation made without justified belief in its truth to induce another person to act; a tort arising from a knowing or reckless misrepresentation or concealment of material fact made to induce another to act to his or her detriment.

14. “Fraudulent concealment” as defined in Black’s law Dictionary, 10th Edition, is the affirmative suppression or hiding, with the intent to deceive or defraud, of a material fact or circumstance that one is legally (or, sometimes, morally) bound to reveal.

15. According to the Law Lexicon, Third Edition (2012), the Latin Maxim “Suppressio veri, suggestio falsi” defines that the suppression of the truth is equivalent to the suggestion of falsehood. The suppression or failure to disclose what one party is bound to disclose to another, may amount to fraud. Where a person is found to be guilty of suppressio veri suggestio falsi for having concealed material information from scrutiny of the Court, he is not entitled for any equitable relief under order 39 of CPC (5 of 1908). [Arbind Kumar Pal v. Hazi Md. Faizullah Khan, AIR 2007 (NOC) 1035 (Pat) : (2006) 1 BLJR 430].

16. The maxim that one who comes to Court must come with “clean hands” is based on conscience and good faith. The maxim is confined to

misconduct in regard to, or at all events connected with, the matter in litigation. “Clean hands” means a clean record with respect to the transaction with the defendant, and not with respect to any third person.

17. As authored by Ruma Pal, J. in *S.J.S. Business Enterprises (P) Ltd. v. State of Bihar* reported in (2004) 7 SCC 166 [Coram: Ruma Pal and P. Venkatarama Reddi, J.J.], suppression of a material fact by a litigant disqualifies such litigant from obtaining any relief. The relevant portion is provided below:

“13. As a general rule, suppression of a material fact by a litigant disqualifies such litigant from obtaining any relief. This rule has been evolved out of the need of the courts to deter a litigant from abusing the process of court by deceiving it. But the suppressed fact must be a material one in the sense that had it not been suppressed it would have had an effect on the merits of the case. It must be a matter which was material from the consideration of the court, whatever view the court may have taken.....”

18. In *S.P. Chengalvaraya Naidu (Dead) by LRs v. Jagannath (Dead) by LRs* reported in (1994) 1 SCC 1 [Coram: Kuldip Singh and P.B. Sawant, J.J.], the Supreme Court came down heavily on petitioners filing cases based on falsehood and suppression and observed as follows:

“5. The Courts of law are meant for imparting justice between the parties. One, who comes to the Court, must come with clean hands. We are constrained to say that more often than not, process of the Court is being abused. Property-grabbers, tax-evaders, bank-loan dodgers and other unscrupulous persons from all walks of life find the court-process a convenient lever to retain the illegal gains indefinitely. We have no hesitation to say that a person, whose case is based on falsehood, has no right to approach the Court. He can be summarily thrown out at any stage of litigation.

6. A fraud is an act of deliberate deception with the design of securing something by taking advantage of another. It is a deception in order to gain by another's loss. It is a cheating intended to get an advantage of another A litigant, who approaches the Court, is bound to produce all the documents executed by him, which are relevant to the litigation. If he withholds a vital document in order to gain advantage on the other side then he would be guilty of playing fraud on the Court as well as on the opposite party.”

19. In a well-known Calcutta High Court case in *Chittaranjan Das v. Durgapore Project Ltd.* reported in 99 C.W.N. 897 [Coram: Satya Brata Sinha and Basudeva Panigrahi, J.J.], the Court observed at paragraph 64 that “Suppression of a material document which affects the condition of service of the petitioner, would amount to fraud in such matters. Even the principles of natural justice are not required to be complied with in such a situation. It is now well known that a fraud vitiates all solemn acts.”

20. In *Asiatic Engineering Co. v. Achhru Ram* reported in AIR 1951 Allahabad 746 (Full Bench) [Coram: Malik, C.J., Sapru and V. Bhargava, J.J.], the Court observed that no relief can be granted in a writ petition under Article 226 which is based on misstatement or suppression of material facts. The Court observed in paragraph 51, at page 767 as follows:

“51. In our opinion, the salutary principle laid down in the cases quoted above should appropriately be applied by Courts in our country when parties seek the aid of the extraordinary powers granted to the Court under Art. 226 of the Constitution. A person obtaining an ex parte order or a rule nisi by means of a petition for

exercise of the extraordinary powers under Art. 226 of the Constitution must come with clean hands, must not suppress any relevant facts from the Court, must refrain from making misleading statements and from giving incorrect information to the Court. Courts, for their own protection, should insist that persons invoking these extraordinary powers should not attempt, in any manner, to misuse this valuable right by obtaining ex parte orders by suppression, misrepresentation or misstatement of facts.”

21. *In Indian Bank v. Satyam Fibres (India) Pvt. Ltd. reported in (1996) 5 SCC 550 : J.T. 1996 (7) SC 135 [Coram: Kuldip Singh & S. Saghir Ahmad, J.J.], the Apex Court further observed as follows:*

“23. Since fraud affects the solemnity, regularity and orderliness of the proceedings of the Court, it also amounts to an abuse of the process of the Court, that the Courts have inherent power to set aside an order obtained by practising fraud upon the Court, and that where the Court is misled by a party or the Court itself commits a mistake which prejudices a party, the Court has the inherent power to recall its order.”

22. *Similar principles have been enunciated in English cases. In The King v. Williams reported in (1914) 1 K.B. 608 [Coram: Channell, Rowlatt, Atkin, J.J.], the Court observed at page 614 as follows:*

“..... In my view the writ is discretionary. A party may by his conduct preclude himself from claiming the writ ex debito justitiae, no matter whether the proceedings which he seeks to quash are void or voidable. If they are void it is true that no conduct of his will validate them; but such considerations do not affect the principles on which the Court acts in granting or refusing the writ of certiorari. This special remedy will not be granted ex debito justitiae to a person who fails to state in his evidence on moving for the rule nisi that at the time of the proceedings impugned he was unaware of the facts on which he relies to impugn them.”

23. *As seen from the various judgments discussed above, the Indian and English Courts have consistently taken the view that one who approaches the Court must come with clean hands. It is the bounden duty of the Court to keep the stream of justice absolutely clean. Anyone who approaches must give full and fair disclosure of all the materials. The Courts must not allow anyone to abuse the court process. In case the petitioner conceals anything that is known to be material such an action would lead to an inference of fraud, and even if not fraud, definitely would lead to a presumption that the petitioner has not approached the court with clean hands.*

24. *One must be even more careful when one approaches this court in its extra ordinary jurisdiction for seeking a writ of mandamus and no person can be permitted to adopt dubious, dishonest and fraudulent means and make false averments or conceal the facts while submitting such a writ petition. If a person does so, not only is the petitioner not entitled to any relief from the Court but should be subject to exemplary costs so as to deter future litigants from pursuing a similar course of action.*

25. *I have no hesitation in saying that the doors of justice would be closed for a litigant whose case is based on falsehood or suppression of material facts. Fraud and justice never dwell together. They are alien to each other. Fraud pollutes the sanctity, regularity, orderliness and solemnity of the judicial proceedings. It is the bounden duty of the Court to keep the stream of justice absolutely clean.*

26. Finally, upon examination of the above mentioned judgments, it is axiomatic that any petitioner seeking a writ of mandamus, has to approach the court with clean hands and to produce before the court all material facts that are relevant for adjudication of the said matter. The principle of uberrima fides - abundant good faith - as stated in The King v. The General Commissioners for the purposes of the Income Tax Acts for the District of Kensington reported in (1917) 1 K.B. 486 applies in the present case. A petitioner who does not bring on record the relevant true facts before the court, does not deserve to get any relief from the court."

40. At this juncture, it would be apposite to again refer the decision of the Hon'ble Supreme Court in ***United India Insurance Company Ltd.*** (supra) where the power of the Court to recall its order passed purportedly on misrepresentation or false representation and suppression of material facts have been discussed which are reproduced hereunder:

"13. In S.P. Chengalvaraya Naidu v. Jagannath [(1994) 1 SCC 1] the two-Judge Bench of this Court held: (SCC p. 2, para 1)

" 'Fraud avoids all judicial acts, ecclesiastical or temporal' observed Chief Justice Edward Coke of England about three centuries ago. It is the settled proposition of law that a judgment or decree obtained by playing fraud on the court is a nullity and non est in the eyes of law. Such a judgment/decreed — by the first court or by the highest court — has to be treated as a nullity by every court, whether superior or inferior. It can be challenged in any court even in collateral proceedings."

14. In Indian Bank v. Satyam Fibres (India) (P) Ltd. [(1996) 5 SCC 550] another two-Judge Bench, after making reference to a number of earlier decisions rendered by different High Courts in India, stated the legal position thus: (SCC p. 563, para 23)

"23. Since fraud affects the solemnity, regularity and orderliness of the proceedings of the court and also amounts to an abuse of the process of court, the courts have been held to have inherent power to set aside an order obtained by fraud practised upon that court. Similarly, where the court is misled by a party or the court itself commits a mistake which prejudices a party, the court has the inherent power to recall its order."

15. It is unrealistic to expect the appellant Company to resist a claim at the first instance on the basis of the fraud because the appellant Company had at that stage no knowledge about the fraud allegedly played by the claimants. If the Insurance Company comes to know of any dubious concoction having been made with the sinister object of extracting a claim for compensation, and if by that time the award was already passed, it would not be possible for the Company to file a statutory appeal against the award. Not only because of the bar of limitation to file the appeal but the consideration of the appeal even if the delay could be condoned, would be limited to the issues formulated from the pleadings made till then."

41. On mere glimpse of the ‘*Official Standing Rules*’ enclosed in this Review Petition *ex facie* demonstrates that the said Standing Rules was not meant for ‘*Officers and Supervisors*’. It does not require detailed examination, scrutiny and elucidation of the facts or the legal position. At the cost of repetition, the error committed by this Court in its judgment was based on misconceived document which is self-evident at its first sight and does not *per se* require a process of reasoning.

42. In the background of facts narrated here-in-above, the only issue, now, falls for consideration in this petition is whether the Review Petitioners have been able to make out a case for reviewing the judgment and order dated 15.11.2022 and satisfies the parameters for entertaining the same by this Court in its review jurisdiction.

42.1 Section 114 of CPC provides the power of the Civil Courts to review its judgment/decision which may be reproduced hereunder, for convenience:

Section 114:

“Review:- Subject as aforesaid, any person considering himself aggrieved:-

(a) by a decree or order from which an appeal is allowed by this Code, but from which no appeal has been preferred;

(b) by a decree or order from which no appeal is allowed by this Code; or

(c) by a decision on a reference from a Court of Small Causes, may apply for a review of judgment to the Court which passed the decree or made the order, and the court may make such order thereon as it thinks fit.”

Order 47, Rule 1 of CPC enumerates the grounds on the basis of which a review can be sought for, which reads as under:

Order 47:

“1. Application for review of judgment - (1) Any person considering himself aggrieved -

(a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,

(b) by a decree or order from which no appeal is allowed, or

(c) by a decision on a reference from a Court of Small Causes,

and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the Court which passed the decree or made the order.

(2) A party who is not appealing from a decree or Order may apply for a review of judgment notwithstanding the pendency of an appeal by some other party except where the ground of such appeal is common to the applicant and the appellant, or when, being respondent, he can present to the Appellate Court the case on which he applies for the review.

1[Explanation-The fact that the decision on a question of law on which the judgment of the Court is based has been reversed or modified by the subsequent decision of a superior Court in any other case, shall not be a ground for the review of such judgment.]”

43. While interpreting the above provisions embodied in Order 47, Rule 1 CPC, the Hon’ble Supreme Court in ***Moran Mar Basselios Catholicos & Anr. Vrs. Most Rev. Mar Poulose Athanasius & Ors.*** reported in ***AIR 1954 SC 526: (1955) 1 SCR 4520*** had observed thus: (AIR p.538, para 32)

“32. Under the provisions in the Travancore code of Civil Procedure which is similar in terms to Order 47 Rule 1 of our Code of Civil Procedure, 1908. The court of review has only a limited jurisdiction circumscribed by the definitive limits fixed by the language used therein. It may allow a review on three specified grounds, namely, (i) discovery of new and important matter or evidence which, after the exercise of due diligence, was not within the applicant’s knowledge or could not be produced by him at the time when the decree was passed, (ii) mistake or error apparent on the face of the record, and (iii) for any other sufficient reason. It has been held by the Judicial Committee that the words “any other sufficient reason” must

mean “a reason sufficient on grounds, at least analogous to those specified in the rule.”

43.1 In ***Parsion Devi Vrs. Sumitri Devi***, reported in (1997) 8 SCC 715, the Hon’ble Supreme Court held that : (SCC.p.718, para 9)

“Under Order 47 Rule 1 CPC a judgment may be open to review *inter alia* if there is a mistake or an error apparent on the face of the record. An error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the court to exercise its power of review under Order 47 Rule 1 CPC. In exercise of the jurisdiction under Order 47 Rule 1 CPC it is not permissible for an erroneous decision to be ‘reheard and corrected’. There is a clear distinction between an erroneous decision and error apparent on the face of the record. While first can be corrected by the higher forum, the later only can be corrected by exercise of review jurisdiction. A review petition has a limited purpose and cannot be allowed to be ‘an appeal in disguise’.”

[emphasis added]

43.2 In the case of ***West Bengal & Ors. Vrs. Kamal Sengupta & Anr.***, reported in (2008) 8 SCC 612, the Hon’ble Supreme Court while analyzing the parameters of Order 47, Rule 1 CPC held that: (SCC. P. 633, Para 21 & 22)

“21. At this stage it is apposite to observe that where a review is sought on the ground of discovery of new matter or evidence, such matter or evidence must be relevant and must be of such a character that if the same had been produced, it might have altered the judgment. In other words, mere discovery of new or important matter or evidence is not sufficient ground for review *ex debito justitiae*. Not only this, the party seeking review has also to show that such additional matter or evidence was not within its knowledge and even after the exercise of due diligence, the same could not be produced before the Court earlier.

22. The term ‘mistake or error apparent’ by its very connotation signifies an error which is evident *per se* from the record of the case and does not require detailed examination, scrutiny and elucidation either of the facts or the legal position. If an error is not self-evident and detection thereof requires long debate and process of reasoning, it cannot be treated as an error apparent on the face of the record for the purpose of Order 47 Rule 1 CPC or Section 22(3)(f) of the Act. To put it differently an order or decision or judgment cannot be corrected merely because it is erroneous in law or on the ground that a different view could have been taken by the Court/Tribunal on a point of fact or law. In any case, while exercising the

power of review, the concerned Court/Tribunal cannot sit in appeal over its judgment/decision.”

43.3 In ***O.N. Mahindroo Vrs. District Judge, Delhi***, reported in ***(1971) 3 SCC 5***, the Hon’ble Supreme Court held that *the Court may also reopen its judgment if a manifest wrong has been done and it is necessary to pass an order to do full and effective justice.*

43.4 In ***Chajjan Singh Vrs. State of Rajasthan***, reported in ***AIR 1965 SC 845***, the Hon’ble Supreme Court held that *the normal principle is that a judgment pronounced by the Court is final, and departure from that principle is justified only when circumstances of a substantial and compelling character make it necessary to do so.* For instance, if the attention of the Court is not drawn to a material statutory provisions during the original hearing, the Court will review its judgment [***Giridhari Lal Gupta Vrs. D. H. Mehta, (1971) 3 SCC 189***].

43.5 Again, the finality of the judgment delivered by the Court may be reconsidered ‘*where a glaring omission or patent mistake or like grave error has crept in earlier by judicial fallibility*’. [***Sow Chandra Kante Vrs. Sk. Habib, (1975) 1 SCC 674***].

43.6 While interpreting the words ‘error apparent on the face of the record’, the Hon’ble Supreme Court in ***T.C. Basappa Vrs.T. Nagappa***, reported in ***AIR 1954 SC 440*** held that *error apparent on the face of the proceedings is an error which is based on clear ignorance or disregard of the provisions of law. It must be an error which is a patent error and not a mere wrong decision.*

43.7 The Hon'ble Supreme Court in *Kamlesh Verma Vrs. Mayawati & Ors.* reported in (2013) 8 SCC 320 on cumulative discussions of its various earlier decisions had culled out the following principles to maintain a review petition before a Court.[SCC. p. 333,334, paras 20, 20.1, 20.2]

“Summary of the principles

20. Thus, in view of the above, the following grounds of review are maintainable as stipulated by the statute:

20.1. When the review will be maintainable:

(i) Discovery of new and important matter or evidence which, after the exercise of due diligence, was not within knowledge of the petitioner or could not be produced by him;

(ii) Mistake or error apparent on the face of the record;

(iii) Any other sufficient reason.

The words “any other sufficient reason” have been interpreted in Chhajju Ram v. Neki [(1921-22) 49 IA 144 : (1922) 16 LW 37 : AIR 1922 PC 112] and approved by this Court in Moran Mar Basselios Catholicos v. Most Rev. Mar Poulouse Athanasius [AIR 1954 SC 526 : (1955) 1 SCR 520] to mean “a reason sufficient on grounds at least analogous to those specified in the rule”. The same principles have been reiterated in Union of India v. Sandur Manganese & Iron Ores Ltd. [(2013) 8 SCC 337 : JT (2013) 8 SC 275]

20.2. When the review will not be maintainable:

(i) A repetition of old and overruled argument is not enough to reopen concluded adjudications.

(ii) Minor mistakes of inconsequential import.

(iii) Review proceedings cannot be equated with the original hearing of the case.

*(iv) Review is not maintainable unless **the material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice.***

(v) A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected but lies only for patent error.

(vi) The mere possibility of two views on the subject cannot be a ground for review.

(vii) The error apparent on the face of the record should not be an error which has to be fished out and searched.

(viii) The appreciation of evidence on record is fully within the domain of the appellate court, it cannot be permitted to be advanced in the review petition.

(ix) Review is not maintainable when the same relief sought at the time of arguing the main matter had been negated.”

44. Keeping in view the above principles, I may now consider whether the present review petition is maintainable on the grounds adumbrated in Order 47, Rule 1 CPC.

45. A recapitulation of the facts would show that the respondent (Shri Bhanu Lodh) claimed for higher amount of gratuity, medical reimbursement, half pay leave encashment, refund of illegal deduction are founded on a document under the nomenclature “The TJML Standing Rules of Managerial Staff & Assistants/**Officers/Supervisors**” i.e. the ‘*Draft Standing Rules*’ as discussed here-in-above in details which *per se* found to be not only non-existent but fraudulent one, and purportedly led this Court to place reliance upon the said manipulated document for the purpose of delivery of the judgment passed by this Court which if allowed to sustain, there will be serious adverse consequence to the operation of ‘*Official Standing Rules*’ and governance of the service conditions of the *Officers and Supervisors* employed under the petitioners. It is reiterated that in the ‘*Official Standing Rules*’, the words ‘**Officers/Supervisors**’ were absent and these are the words found in the ‘*Draft Standing Rules*’ which is dishonestly relied upon by the respondent only for the purpose of his wrongful gain.

46. It is evident that after the pronouncement of the judgment dated 15.11.2022 when the question of implementation of the directions issued by this Court came up, the Review Petitioners had made a thorough inquiry when it was surfaced that there was no such document as was produced and relied upon by the respondent who was the petitioner of the writ petition and the original ‘*Official Standing Rules*’ was/is only meant of ‘*Managerial Staff and Assistants*’ and not for the ‘**Officers/Supervisors**’ of the Tripura Jute Mills Ltd. for the purpose of granting gratuity and other related financial benefits.

47. It is apparent on the face of the record that by means of committing malpractice, the respondent had used/utilized the 'Draft Standing Rules' as the actual '*Official Standing Rules*' for obtaining the reliefs he sought for as are discussed and stated already in the preceding paragraphs.

48. Furthermore, to trace out this inherent defect and error in the judgment passed by this Court, no search is required. The error committed by this Court is a material error, manifest on the face of the record, which needless to say, undermines the soundness of the judgment resulting serious miscarriage of justice.

49. The facts emerged during the course of interaction with the respondent personally as stated and discussed (*supra*) and the averments made in the instant review petition have made it very clear that the respondent during his service tenure under the review petitioners had held various important posts as an Officer. It is an absurdity that as an Officer and having held such important posts, he was unaware of the fact of non-existence or inapplicability of '*Draft Standing Rules*' containing the words, '**Officers/Supervisors**'. If we look at this aspect from another angle, it comes to fore that the respondent had played a mischievous role in obtaining the copy of this '*Draft Standing Rules*' through another person, namely, Shri Biswadatta Debbarma who appeared in person and interacted with this Court. It was the respondent himself who requested Shri Debbarma for obtaining the said non-existent document in accordance with the provisions of the RTI Act. Question automatically comes in mind as to why the respondent had approached Shri Debbarma to obtain the said '*Draft Standing Rules*' and after

a few days he collected it from him and used the same in his writ petition to gain financial benefits wrongfully by way of misleading this Court.

50. Added to it, the constant shift in the stand taken by the respondent as regards the source of obtaining the '*Draft Standing Rules*' as stated in the writ petition and later on in the Affidavit-in-Opposition filed in response to the review petition is a pointer towards fraud. The respondent has tried to suppress facts from the Court even after written admission in his Affidavit-in-Opposition [para 3(ii)] that is variation of words in '*Draft Standing Rules*' from the '*Official Standing Rules*' and when confronted sought to change and alter its stand but the declaration is clear and apparent.

51. In Black's Legal Dictionary, '*fraud*' has been defined as intentional perversion of truth for the purpose of inducing another in reliance upon it, to part with valuable thing or surrender a legal right. Fraud may be by words or by conduct or by concealment or by making false or misleading allegations, when such conduct is intended to deceive another person. Bad faith and fraud are synonymous. It includes false statement, suppression of truth, etc. with the purpose of deceiving and gaining advantage over another. A false representation or deception to gain unjust advantage, dishonest artifice or trick, amounts to fraud.

52. The document titled as the '*TJML Official Standing Rules*' goes to the root of the case while granting reliefs to the respondent for which he was not entitled to at all since the said document would not regulate the service conditions of the '**Officers/Supervisors**' like the respondent, but, it is surfaced that the respondent represented the said document dishonestly only

with the intention to deceive the Court to get undue advantage in respect of receiving more financial benefit from the Review Petitioners.

53. The decision and the directions thereof passed by this Court in its judgment while disposing of WP(C) No. 693/2020 in favour of the respondent were based on the said fraudulent document i.e. the '*Draft Standing Rules*', which, if not produced and/or not relied upon by the respondent, the original writ petitioner, the directions passed by this Court in the impugned judgment would obviously be otherwise. At the cost of repetition, I reiterate that the said fraudulent document was placed before this Court in such a manner that this Court was compelled to rely upon it in good faith and arrived at a decision which ought not to have been arrived upon had the real document i.e. the Official Standing Rules would have been produced by the respondent in his writ petition.

54. I have also taken care of the submission of the respondent himself during interaction with this Court at the time of hearing of this review petition when he submitted that the '*Draft Standing Rules*' was annexed to a counter affidavit filed by the State of Tripura in response to a writ petition being No.WP(C) 844/2020, which was supplied by the TJML itself, in my opinion, would not warrant any help to the respondent since mistake, if any, committed at one point of time cannot be allowed to be perpetuated to deliver equitable justice to the parties, particularly, when the report of the Inquiry Committee revealed that said document had never received approval from 'BOD' of TJML. In furtherance thereof, the respondent has failed to furnish any material before this Court under whose instance such mistake was committed by the review petitioners. As I said earlier, the mistake committed by the Review

Petitioners were detected at the time of implementation of the judgment and they discovered the actual '*Official Standing Rules*' governing the Managerial Staff and Assistants working under the Review Petitioners and this is the only document which is relevant to decide the merits of the claim/reliefs sought for by the petitioner in his writ petition. As such, in my opinion, the review petitioners have made out a valid ground for allowing their application for review.

55. Having held thus, this Court in exercise of its jurisdiction as contemplated under Order 47, Rule 1 CPC finds force to allow the instant review petition as the defect or error is apparent on the face of the judgment passed by this Court in WP(C) No. 693/2020, and thus having found sufficient reasons to exercise the power of review, it is held that the respondent is not entitled to get any reliefs sought for by him in his writ petition. As a corollary, the directions granting reliefs to the respondent under the impugned judgment and order dated 15.11.2022, in WP(C) No.693 of 2020 are recalled, and thereby is set aside and quashed.

56. Lastly, what has emerged, on overall assessment of the entire facts and circumstances coupled with the chronological events as discussed here-in-above, in my conscious opinion, there is an organized racket in one section of the employees of TJML which appears to be very active in flouting and/or manipulating the rules and regulations governing the service conditions of the employees under the respondents for their wrongful gain. In this situation, I could not resist myself but to direct the Review Petitioners to

undertake a full-fledged enquiry over the matter and if requires take the assistance of the State-run investigating agencies in accordance with law.

57. I will be failing in my duty if I see the act and commission of the respondent lightly/casually. The respondent has practiced a serious fraud by way of misleading this Court being relied upon a fraudulent document and since this Court already has held that it was an absurdity that being an Officer and having held various important posts under the Review Petitioners he was not aware of the actual '*Official Standing Rules*' governing the service conditions of the '**Officers/Supervisors**' and those of Managerial Staff & Assistants, I have taken a serious view over this matter and in my considered view such a practice shall be deprecated and should not be encouraged. Considering the facts narrated here-in-above and the law laid down in the case of *Dnyandeo Sabaji Naik & Anr. Vrs. Pradnya Prakash Khadekar & Ors.* reported in (2017) 5 SCC 496, such tactics on the part of the litigant must be firmly dealt with by imposing exemplary costs on the litigant concerned so as to ensure that access to Courts is available to citizens with genuine grievance and it is not merely a matter of discretion but a duty and obligation cast upon the Courts to ensure that legal system is not exploited by those who use the forms of the law to defeat justice. Therefore, I impose cost of Rs.1,00,000/- (Rupees One Lakh) only upon the respondent, Shri Bhanu Lodh as a means of discouraging such attitude of the litigants and to ensure that justice is administered efficiently.

58. Out of the said cost of **Rs.1,00,000/-**, the respondent Shri Bhanu Lodh is directed to deposit **Rs.50,000/- (Rupees fifty thousand)** to the

Secretary, High Court Legal Services Committee and out of the balance amount of Rs.50,000/-, **Rs. 25,000/- (Rupees twenty five thousand)** will be deposited to the Secretary, High Court Employees Association and the rest amount of **Rs.25,000/- (Rupees twenty five thousand)** will be deposited to the Secretary, High Court Bar Association within a period of 30 (thirty) days from the date of receipt of the copy of this judgment.

59. The instant review petition is accordingly allowed in the above terms and disposed of. All actions initiated and/or taken by the Review Petitioners against the respondent Shri Bhanu Lodh are hereby affirmed. Pending application(s) if any, shall also stand disposed.

JUDGE



SAIKAT KAR

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Date: 2024.04.26 15:35:45 +05'30'

sanjay