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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 4744/2024**

RENU KAPOOR

..... Petitioner

Through: Mr.Puneet Goel, Advocate (Through
VC)

versus

THE CONTROLLING AUTHORITY AND ORS Respondents

Through: Mr.Gulshan Chawla, Advocate

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

02.04.2024

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CM APPL. 19458/2024 (Exemption)

Exemption allowed subject to just exceptions.

The application stands disposed of.

W.P.(C) 4744/2024

1. The instant writ petition under Article 226 of the Constitution of India has been filed on behalf of petitioner seeking the following relief:-

"It is, therefore, under the facts and circumstances as stated above, this Hon'ble Court may please to direct the respondent no.1 to consider the application U/ (7) (5) of the Payment of Gratuity Act, moved by the petitioner and decide the same within a period of 2 week from the date of passing the order by this Hon'ble Court, in the interest of justice."

2. Learned counsel for the respondents appeared on advance notice. He vehemently opposed the instant petition submitting to the effect that the



petitioner has not come with the clean hands and certain important facts have been concealed by him in the instant writ petition.

3. It is submitted that an application under Order XII Rule 6 read with Section 151 of the Code of Civil Procedure, 1908 (hereinafter "CPC") has already been filed by the petitioner before the Controlling Authority under the Payment of Gratuity Act, Karkardooma, Delhi. It is further submitted that the aforesaid application is nothing but the dilatory tactics of the petitioner in order to delay the proceedings.

4. During the arguments, learned counsel for the respondents has placed before this Court the copy of the aforesaid application filed before the Controlling Authority as well as referred to the various orders passed by the respondent-School.

4. At this juncture, learned counsel appearing on behalf of petitioner submitted that the aforesaid application under Order XII Rule 6 has been filed after filing of the instant writ petition. Therefore, it is prayed that the instant petition may be allowed since there is no force in the arguments advanced by learned counsel for the respondents.

5. Heard learned counsel for the parties and perused the record as well as the orders passed by the respondent-School and the application under Order XII Rule 6 of the CPC filed before the Controlling Authority.

6. Before advertng on the merits of the instant petition, this Court will reiterate the settled position of law regarding the duty of the litigants disclose the facts and not suppress any relevant material or try to misguide the Court.

7. The Hon'ble Supreme Court has repeatedly held that suppression of material facts in a writ petition is a ground for dismissal of petition even



without adverting to merits of the matter. This principal was expounded in the judgments of ***Virendra Kumar Saklecha vs. Jagjiwan* (1972) 1 SCC 826**, as well as in ***Sukhwinder Pal Bipan Kumar vs. State of Punjab* (1982) 1 SCC 31**. The Hon'ble Supreme Court emphasised on the fact that the petitioner is bound to make full disclosure in affidavits submitted to the writ Courts.

8. The Hon'ble Supreme Court in the judgment ***Prestige Lights Ltd. v. State Bank of India*, (2007) 8 SCC 449** held that in case there is a suppression of material facts on the part of the litigant, the Court under Article 226 may not entertain the petition and dismiss it without entering into the merits of the case. The relevant extract of the judgment is reproduced herein below:

“33. It is thus clear that though the appellant Company had approached the High Court under Article 226 of the Constitution, it had not candidly stated all the facts to the Court. The High Court is exercising discretionary and extraordinary jurisdiction under Article 226 of the Constitution. Over and above, a court of law is also a court of equity. It is, therefore, of utmost necessity that when a party approaches a High Court, he must place all the facts before the Court without any reservation. If there is suppression of material facts on the part of the applicant or twisted facts have been placed before the Court, the writ court may refuse to entertain the petition and dismiss it without entering into merits of the matter.”

9. The Hon'ble Supreme Court in its judgement in ***Amar Singh v. Union of India & Others* 2011 SCC 7 69** upheld this position of law and indisputably laid down the doctrine of clean hands through its exposition of the law in the excerpt below:



“61. Following these principles, this Court has no hesitation in holding that the instant writ petition is an attempt by the petitioner to mislead the Court on the basis of frivolous allegations and by suppression of material facts as pointed out and discussed above. In view of such incorrect presentation of facts, this Court had issued notice and also subsequently passed the injunction order which is still continuing.

62. This Court, therefore, dismisses the writ petition and vacates the interim order and is not called upon to decide the merits, if any, of the petitioner's case. ...”

10. The Hon’ble Supreme Court has reiterated that any litigant who approaches the writ court for any reliefs, equitable or otherwise, is solemnly obligated to truthfully disclose all pertinent and material facts which are relevant for the adjudication of the issues presented in the case. It is their duty to disclose all relevant information and to refrain from withholding any facts that are in their knowledge or could have been discerned by exercising the reasonable diligence that a prudent person would anticipate. Under writ jurisdiction as the Court acts as a Court of equity. Hence, a petitioner approaching the Court is duty-bound to disclose all the facts.

11. In the instant petition, upon perusal of the contents of the application under Order XII Rule 6 of the CPC filed before the learned Trial Court, it is observed that the said application was filed on 29th February, 2024, i.e. prior to the filing of the instant petition. However, when a specific query during the course of arguments was made to learned counsel for the petitioner as to when the application under Order XII Rule 6 was filed and in response to the said query, he submitted that the said application was filed after the filing of the instant writ petition.



12. This Court has observed that the afore stated response of the learned counsel for the petitioner is a false and fabricated statement and the same is apparent on the face of the record. The said statement has been made with *malafide* intentions and the same is not appreciated by this Court.

13. This Court is of the view that the litigants when approaching this Court under writ jurisdiction, they shall come to Court of law with a pair of clean hands and there shall be no suppression of any material fact. In case there is a non- disclosure of important facts, this Court has the discretion to dismiss the writ petition without advertng to the merits of the case.

12. In light of the false statement made by learned counsel for the petitioner as well non- disclosure of the material facts in the petition, the instant petition alongwith pending application is dismissed.

CHANDRA DHARI SINGH, J

APRIL 2, 2024

dy/db

Click here to check corrigendum, if any